

1-8-2015

State v. Cunningham Clerk's Record Dckt. 42585

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Supreme Court Case No. 42585

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE LYNN G. NORTON

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

State of Idaho vs. Jeremy York Cunningham

Date	Code	User		Judge
4/14/2014	NCRF	PRSCHOKF	New Case Filed - Felony	Magistrate Court Clerk
	PROS	PRSCHOKF	Prosecutor assigned Ada County Prosecutor	Magistrate Court Clerk
	CRCO	TCMCCOSL	Criminal Complaint	Magistrate Court Clerk
	HRSC	TCMCCOSL	Hearing Scheduled (Video Arraignment 04/14/2014 01:30 PM)	Michael Oths
	ARRN	TCPOSELM	Hearing result for Video Arraignment scheduled on 04/14/2014 01:30 PM: Arraignment / First Appearance	Michael Oths
	ORPD	TCPOSELM	Order Appointing Public Defender Ada County Public Defender [on the record in open court]	Magistrate Court Clerk
	CHGA	TCPOSELM	Judge Change: Administrative	Daniel L Steckel
	HRSC	TCPOSELM	Hearing Scheduled (Preliminary 04/28/2014 08:30 AM)	Daniel L Steckel
	BSET	TCPOSELM	BOND SET: at 10000.00 - (I37-2732(c)(1) {F} Controlled Substance-Possession of)	Daniel L Steckel
	ORPD	MADEFRJM	Order Appointing Public Defender [file stamped 04/15/2014]	Daniel L Steckel
4/16/2014	MFBR	TCLANGAJ	Motion For Bond Reduction	Daniel L Steckel
	NOHG	TCLANGAJ	Notice Of Hearing	Daniel L Steckel
	RQDD	TCLANGAJ	Defendant's Request for Discovery	Daniel L Steckel
4/21/2014	PHRD	TCCHRIKE	Preliminary Hearing Response to Request for Discovery and Objections	Daniel L Steckel
	RQDS	TCCHRIKE	State/City Request for Discovery	Daniel L Steckel
4/28/2014	CONT	CCMANLHR	Continued (Preliminary 05/02/2014 09:30 AM)	Daniel L Steckel
	MFBR	CCMANLHR	Motion For Bond Reduction Denied	Daniel L Steckel
	MMNH	CCMANLHR	Magistrate Minutes & Notice of Hearing	Daniel L Steckel
5/2/2014	CONT	CCMANLHR	Continued (Preliminary 05/15/2014 08:30 AM)	Daniel L Steckel
	MMNH	CCMANLHR	Magistrate Minutes & Notice of Hearing	Daniel L Steckel
5/15/2014	BOUN	TCHOCA	Hearing result for Preliminary scheduled on 05/15/2014 08:30 AM: Bound Over (after Prelim)	Daniel L Steckel
	CHGB	TCHOCA	Change Assigned Judge: Bind Over	Thomas F. Neville
	HRSC	TCHOCA	Hearing Scheduled (Arraignment 05/27/2014 09:00 AM)	Thomas F. Neville
	AMCO	TCHOCA	Amended Complaint Filed	Daniel L Steckel
	MMNH	TCHOCA	Magistrate Minutes & Notice of Hearing	Daniel L Steckel
	COMT	TCHOCA	Commitment	Daniel L Steckel
5/20/2014	INFO	TCCHRIKE	Information	Thomas F. Neville
5/21/2014	PROS	PRHEBELE	Prosecutor assigned R. Scott Bandy	Thomas F. Neville
5/22/2014	MOTN	TCCHRIKE	Motion for Preliminary Hearing Transcript	Thomas F. Neville
5/23/2014	MDQJ	TCCHRIKE	Motion to Disqualify	Thomas F. Neville

State of Idaho vs. Jeremy York Cunningham

Date	Code	User	Judge
5/27/2014	DISW	DCELLISJ	Disqualification of Judge - Without Cause/Order Granting Disqualification Without Cause
	CJWO	DCELLISJ	Change Assigned Judge: Disqualification W/O Cause
	DCAR	DCELLISJ	Hearing result for Arraignment scheduled on 05/27/2014 09:00 AM: District Court Arraignment- Court Reporter: Sue Wolf Number of Pages: Less than 100 pages
	HRSC	DCELLISJ	Hearing Scheduled (Entry of Plea 06/05/2014 09:00 AM)
		DCELLISJ	Notice of Reassignment
6/2/2014	PROS	PRBRIGCA	Prosecutor assigned James E Vogt
6/4/2014	ORDR	DCKORSJP	Order for Preliminary Hearing Transcript
6/5/2014	DCHH	DCKORSJP	Hearing result for Entry of Plea scheduled on 06/05/2014 09:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRSC	DCKORSJP	Hearing Scheduled (Entry of Plea 06/12/2014 09:00 AM)
6/10/2014	NOPT	TCCHRIKE	Notice of Preparation of Preliminary Hearing Transcript
6/12/2014	DCHH	DCKORSJP	Hearing result for Entry of Plea scheduled on 06/12/2014 09:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	HRSC	DCKORSJP	Hearing Scheduled (Status Conference 07/24/2014 09:00 AM)
	HRSC	DCKORSJP	Hearing Scheduled (Pretrial Conference 08/28/2014 09:00 AM)
	HRSC	DCKORSJP	Hearing Scheduled (Jury Trial 09/09/2014 08:30 AM) 2 days
	PLEA	DCKORSJP	A Plea is entered for charge: - NG (I37-2732(c)(1) {F} Controlled Substance-Possession of)
	PLEA	DCKORSJP	A Plea is entered for charge: - NG (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)
	NJTO	DCKORSJP	Notice Of Jury Trial And Scheduling Order
6/25/2014	TRAN	TCOLSOMC	Transcript Filed [file stamped 06/23/2014]
7/2/2014	RSDS	TCLANGAJ	State/City Response to Discovery

State of Idaho vs. Jeremy York Cunningham

Date	Code	User	Judge
7/24/2014	DCHH	CCVILLTL	Hearing result for Status Conference scheduled on 07/24/2014 09:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: less than 100
7/31/2014	PROS	PRHEBELE	Prosecutor assigned Barbara Duggan
8/18/2014	RSDS	TCCHRIKE	State/City Response to Discovery / Addendum
8/21/2014	CONT	DCKORSJP	Continued (Pretrial Conference 08/28/2014 11:00 AM)
8/28/2014	DCHH	DCKORSJP	Hearing result for Pretrial Conference scheduled on 08/28/2014 11:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100
	MISC	DCKORSJP	State's Witness List
	MISC	DCKORSJP	State's Exhibit List
	ORDR	DCKORSJP	Final PreTrial Order
9/5/2014	NINT	TCLANGAJ	Notice Of Intent to Impeach Pursuant to IRE 609
9/9/2014	JTST	DCKORSJP	Hearing result for Jury Trial scheduled on 09/09/2014 08:30 AM: Jury Trial Started 2 days
	DCHH	DCKORSJP	District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: More than 200
9/10/2014	DCHH	DCKORSJP	District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: 50
	FOGT	DCKORSJP	Found Guilty After Trial (Count I)
	ACQU	DCKORSJP	Acquitted (after Trial) (I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use)
	HRSC	DCKORSJP	Hearing Scheduled (Status Conference 09/11/2014 10:00 AM)
	MISC	DCKORSJP	Jury Instructions
	MISC	DCKORSJP	Verdict
	PTRO	DCKORSJP	Amended Pre Trial Release Order
9/11/2014	DCHH	DCKORSJP	Hearing result for Status Conference scheduled on 09/11/2014 10:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100

State of Idaho vs. Jeremy York Cunningham

Date	Code	User	Judge
9/11/2014	HRSC	DCKORSJP	Hearing Scheduled (Sentencing 09/25/2014 10:00 AM) Lynn G Norton
9/25/2014	DCHH	DCKORSJP	Hearing result for Sentencing scheduled on 09/25/2014 10:00 AM: District Court Hearing Held Court Reporter: Penny Tardiff Number of Transcript Pages for this hearing estimated: Less than 100 Lynn G Norton
	HRSC	DCKORSJP	Hearing Scheduled (Hearing Scheduled 10/23/2014 11:00 AM) Restitution Hearing Lynn G Norton
	FIGT	DCKORSJP	Finding of Guilty (I37-2732(c)(1) {F} Controlled Substance-Possession of) Lynn G Norton
	JAIL	DCKORSJP	Sentenced to Jail or Detention (I37-2732(c)(1) {F} Controlled Substance-Possession of) Confinement terms: Penitentiary determinate: 1 year 6 months. Penitentiary indeterminate: 3 years 6 months. Lynn G Norton
	STAT	DCKORSJP	STATUS CHANGED: closed pending clerk action Lynn G Norton
	SNPF	DCKORSJP	Sentenced To Pay Fine 2030.50 charge: I37-2732(c)(1) {F} Controlled Substance-Possession of Lynn G Norton
9/29/2014	JCOC	DCDOUGLI	Judgment & Commitment Lynn G Norton
		DCKORSJP	Order to Transport Lynn G Norton
10/3/2014	NOTA	TCOLSOMC	NOTICE OF APPEAL Lynn G Norton
	APSC	TCOLSOMC	Appealed To The Supreme Court Lynn G Norton
10/7/2014	ORDR	DCKORSJP	Order Appointing State Appellate Public Defender on Direct Appeal Lynn G Norton
10/23/2014	DCHH	DCKORSJP	Hearing result for Hearing Scheduled scheduled on 10/23/2014 11:00 AM: District Court Hearing Held Court Reporter: Tiffany Fisher Number of Transcript Pages for this hearing estimated: Less than 100 Restitution Hearing Lynn G Norton
	RESR	DCKORSJP	Restitution Recommended by the Prosecutor's office. 100.00 victim # 2 Lynn G Norton
	RESR	DCKORSJP	Restitution Recommended by the Prosecutor's office. 2240.00 victim # 1 Lynn G Norton
10/24/2014	ORDR	DCLYKEMA	Order for Restitution and Judgment [file stamped 10/23/2014] Lynn G Norton
10/27/2014	AMJD	DCLYKEMA	Amended Judgment & Commitment Lynn G Norton
10/28/2014	NOTA	TCCHRIKE	Amended NOTICE OF APPEAL Lynn G Norton
12/8/2014	NOTA	CCJOHNLE	Second Amended NOTICE OF APPEAL Lynn G Norton
1/8/2015	NOTC	TCWEGEKE	(2) Notice of Transcript Lodged - Supreme Court No. 42585 Lynn G Norton

DR # 14-407425

APR 14 2014

CHRISTOPHER D. RICH, Clerk
By STORMY McCORMACK
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Kari L Higbee

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

COMPLAINT

Cunningham's DOB: 8/21/1975

Cunningham's SSN: XXX-XX-8081

PERSONALLY APPEARED Before me this 14th day of April 2014, Kari L Higbee, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did commit the crimes of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

SM

COUNT I

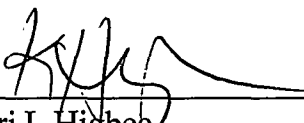
That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine and/or Amphetamine, a Schedule II controlled substance.

COUNT II

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a spoon, baggies, scales and/or syringes, used to prepare, store, analyze and/or inject a controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

GREG H. BOWER
Ada County Prosecutor



Kari L Higbee
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 14 day of April 2014.



Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. _____

VS.

CLERK _____

Cunningham, Jeremy

DATE 4/12/14 TIME 2:09

PROSECUTOR J McNamee

TOXIMETER _____

COMPLAINING WITNESS _____

CASE ID. _____ BEG. 0000

END 0218

JUDGE

STATUS

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> BEREZ | <input type="checkbox"/> MacGREGOR-IRBY |
| <input type="checkbox"/> BIETER | <input type="checkbox"/> MANWEILER |
| <input type="checkbox"/> CAWTHON | <input type="checkbox"/> McDANIEL |
| <input type="checkbox"/> COMSTOCK | <input type="checkbox"/> MINDER |
| <input type="checkbox"/> DAY | <input type="checkbox"/> OTHS |
| <input type="checkbox"/> GARDUNIA | <input checked="" type="checkbox"/> REARDON |
| <input type="checkbox"/> HARRIGFELD | <input type="checkbox"/> STECKEL |
| <input type="checkbox"/> HAWLEY | <input type="checkbox"/> SWAIN |
| <input type="checkbox"/> HICKS | <input type="checkbox"/> WATKINS |
| <input type="checkbox"/> _____ | |
| <input type="checkbox"/> _____ | |

- ☐ WITNESS SWORN
- ☒ PC FOUND PCs (E)
- ☐ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ NO PC FOUND _____
- ☐ EXONERATE BOND
- ☐ SUMMONS TO BE ISSUED
- ☐ WARRANT ISSUED
- ☐ BOND SET \$ _____
- ☐ NO CONTACT

D.R. # _____

- ☐ DISMISS CASE
- ☒ IN CUSTODY

COMMENTS

4/11/14 after 11:00 pm - patrol - SB on Pango, drove down Gravel w/o headlights
PT Serial on Lander - stop veh, ID driver as A - warrant arrest - white CS
+ Posted - Springer - PC Bond

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO. CR-FE-14-5157

VS

CLERK A Edwards

Jeremy Y. Cunningham

DATE 04/14/14 TIME 1030am

PROSECUTOR K. Higbee

CASE ID _____ BEG. 103841

COMPLAINING WITNESS _____

COURTROOM 204 END 103923

INTOX _____

JUDGE

STATUS

- ☐ BEREZ
- ☐ BIETER
- ☐ CAWTHON
- ☐ COMSTOCK
- ☐ ELLIS
- ☐ FORTIER
- ☐ GARDUNIA
- ☐ HARRIGFELD
- ☐ HAWLEY
- ☐ HICKS
- ☐ KIBODEAUX
- ☐ _____
- ☐ _____

- ☐ MacGREGOR-IRBY
- ☐ MANWEILER
- ☐ McDANIEL
- ☐ MINDER
- ☐ OTHS
- ☐ REARDON
- ☐ SCHMIDT
- ☐ STECKEL
- ☒ SWAIN
- ☐ WATKINS

- ☒ STATE SWORN
- ☐ PC FOUND _____
- ☒ COMPLAINT SIGNED
- ☐ AMENDED COMPLAINT SIGNED
- ☐ AFFIDAVIT SIGNED
- ☒ JUDICIAL NOTICE TAKEN
- ☐ NO PC FOUND _____
- ☐ EXONERATE BOND _____
- ☐ SUMMONS TO BE ISSUED
- ☐ WARRANT ISSUED
- ☐ BOND SET \$ _____
- ☐ NO CONTACT

DR# _____

- ☐ DISMISS CASE
- ☐ IN CUSTODY

COMMENTS

- ☐ AGENTS WARRANT _____
- ☐ RULE 5(B) _____
- ☐ FUGITIVE _____
- ☐ MOTION & ORDER TO CONSOLIDATE _____
- _____
- _____
- _____

ADA COUNTY MAGISTRATE MINUTES

Jeremy York Cunningham CR-FE-2014-0005157

DOB: 8/21/1975

Scheduled Event: **Video Arraignment** Monday, April 14, 2014 01:30 PM

Judge: **Michael Oths**

Clerk: hp

Interpreter: _____

Prosecuting Agency: ☒ AC ☐ BC ☐ EA ☐ GC ☐ MC

Pros: E. Pittenger

☒ PD Attorney: S. Billinge

- 1 I37-2732(c)(1) F Controlled Substance-Possession of F
- 2 I37-2734A(1) Drug Paraphernalia-Use or Possess With Intent to Use M

22206 Case Called Defendant: ☒ Present ☐ Not Present ☒ In Custody

☒ Advised of Rights ☐ Waived Rights ☒ PD Appointed ☐ Waived Attorney

☐ Guilty Plea / PV Admit ☐ N/G Plea ☐ Advise Subsequent Penalty

☒ Bond \$ 10,000 ☐ ROR ☐ Pay / Stay ☐ Payment Agreement

☐ In Chambers ☐ PT Memo ☐ Written Guilty Plea ☐ No Contact Order

P.H: 4/28/14 @ 8:30am
w/ Judge Steckel

Finish () Release Defendant

000010

NO. _____
FILED
A.M. _____ P.M. 12:02

APR 15 2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA
MAGISTRATE DIVISION

CHRISTOPHER D. RICH, Clerk
by STEPHANIE HARDY
DEPUTY

STATE OF IDAHO,
Plaintiff.

vs.

Jeremy York Cunningham
425 West Jefferson
Boise, ID 83702
Defendant.

)
)
) Case No: CR-FE-2014-0005157

) NOTICE OF APPOINTMENT OF PUBLIC DEFENDER
) AND SETTING CASE FOR HEARING

) ☒ Ada ☐ Boise ☐ Eagle ☐ Garden City ☐ Meridian
)

TO: Ada County Public Defender

YOU ARE HEREBY NOTIFIED that you are appointed to represent the defendant in this cause, or in the District Court until relieved by court order. The case is continued for:

Preliminary Monday, April 28, 2014 08:30 AM
Judge: Daniel L Steckel

BOND AMOUNT: _____ The Defendant is: ☐ In Custody ☐ Released on Bail ☐ ROR

TO: The above named defendant

IT HAS BEEN ORDERED BY THIS COURT that the defendant is to contact the Ada County Public Defender's Office at 200 W. Front Street, Room 1107, Boise, Idaho 83702. Telephone: (208) 287-7400. If the defendant is unable to post bond and obtain his/her release from jail, that the proper authorities allow the defendant to make a phone call to the Ada County Public Defender.

IT HAS BEEN FURTHER ORDERED: That the parties, prior to the pre-trial conference, complete and comply with Rule 16 I.C.R. and THAT THE DEFENDANT BE **PERSONALLY PRESENT** AT BOTH THE PRE-TRIAL CONFERENCE AND / OR THE JURY TRIAL: FAILURE TO APPEAR AT EITHER THE PRE-TRIAL CONFERENCE OR THE JURY TRIAL WILL RESULT IN A **BENCH WARRANT** FOR THE DEFENDANT'S ARREST.

I hereby certify that copies of this Notice were served as follows on this date Monday, April 14, 2014.

Defendant: Mailed _____ Hand Delivered _____ Signature Stephanie Hardy
Clerk / date Phone () _____

Prosecutor: Interdepartmental Mail SH 4/15

Public Defender: Interdepartmental Mail SH 4/15

Stephanie Hardy
Deputy Clerk

200
PA
4/18
830

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. 1045 FILED
A.M. 1045 P.M.
APR 16 2014
CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,

Plaintiff

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

MOTION FOR BOND REDUCTION

COMES NOW, JEREMY YORK CUNNINGHAM, the above-named defendant, by and through counsel ANITA M.E. MOORE, Ada County Public Defender's office, and moves this Court for its ORDER reducing bond in the above-entitled matter upon the grounds that the bond is so unreasonably high that the defendant, who is an indigent person without funds, cannot post such a bond, and for the reason that the defendant has thereby been effectively denied their right to bail.

DATED, Wednesday, April 16, 2014.



ANITA M.E. MOORE
Attorney for Defendant

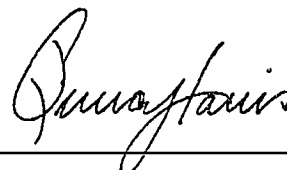
CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, April 16, 2014, I mailed a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.


MOTION FOR BOND REDUCTION



000012

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. 1045 FILED
A.M. 1045 P.M.

APR 16 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

JEREMY YORK CUNNINGHAM,

Defendant.


Case No. CR-FE-2014-0005157

NOTICE OF HEARING

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

YOU, AND EACH OF YOU, are hereby notified that the defendant will call for a hearing on MOTION FOR BOND REDUCTION, now on file in the above-entitled matter, on Monday, April 28, 2014, at the hour of 08:30 AM, in the courtroom of the above-entitled court, or as soon thereafter as counsel may be heard.

DATED, Wednesday, April 16, 2014.


ANITA M.E. MOORE
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, April 16, 2014, I mailed a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.

NOTICE OF HEARING


000013

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. 1045 FILED
A.M. 10:45 P.M.

APR 16 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

REQUEST FOR DISCOVERY

TO: THE STATE OF IDAHO, Plaintiff, and to ADA COUNTY PROSECUTOR:

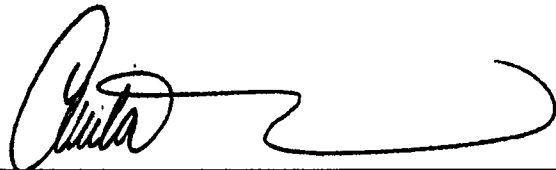
PLEASE TAKE NOTICE, that the undersigned, pursuant to ICR 16, requests discovery and photocopies of the following information, evidence, and materials:

- 1) All **unredacted** material or information within the prosecutor's possession or control, or which thereafter comes into his possession or control, which tends to negate the guilt of the accused or tends to reduce the punishment thereof. ICR 16(a).
- 2) Any **unredacted**, relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody or control of the state, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.
- 3) Any **unredacted**, written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney.
- 4) Any prior criminal record of the defendant and co-defendant, if any.
- 5) All **unredacted** documents and tangible objects as defined by ICR 16(b)(4) in the possession or control of the prosecutor, which are material to the defense, intended for use by the prosecutor or obtained from or belonging to the defendant or co-defendant.

- 6) All reports of physical or mental examinations and of scientific tests or experiments within the possession, control, or knowledge of the prosecutor, the existence of which is known or is available to the prosecutor by the exercise of due diligence.
- 7) A written list of the names, addresses, records of prior felony convictions, and written or recorded statements of all persons having knowledge of facts of the case known to the prosecutor and his agents or any official involved in the investigatory process of the case.
- 8) A written summary or report of any testimony that the state intends to introduce pursuant to rules 702, 703, or 705 of the Idaho Rules of Evidence at trial or hearing; including the witness' opinions, the facts and data for those opinions, and the witness' qualifications.
- 9) All reports or memoranda made by police officers or investigators in connection with the investigation or prosecution of the case, including what are commonly referred to as "ticket notes."
- 10) Any writing or object that may be used to refresh the memory of all persons who may be called as witnesses, pursuant to IRE 612.
- 11) Any and all audio and/or video recordings made by law enforcement officials during the course of their investigation.
- 12) Any evidence, documents, or witnesses that the state discovers or could discover with due diligence after complying with this request.

The undersigned further requests written compliance within 14 days of service of the within instrument.

DATED, Wednesday, April 16, 2014.



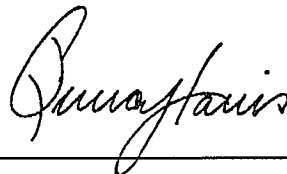
ANITA M.E. MOORE
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Wednesday, April 16, 2014, I mailed a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
Counsel for the State of Idaho

by placing said same in the Interdepartmental Mail.



260
P11
4/28
8:00

NO. _____
A.M. _____ P.M. 2

APR 21 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kale D. Gans
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
	)	Case No. CR-FE-2014-0005157
Plaintiff,)	
vs.	)	PRELIMINARY HEARING
	)	RESPONSE TO REQUEST FOR
JEREMY YORK CUNNINGHAM,	)	DISCOVERY AND OBJECTIONS
)	
Defendant.)	
_____)	

COMES NOW, Kale D. Gans, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and submits the following Preliminary Hearing Response to the Request for Discovery and Objections and informs the Court that the State has complied with the Defendant's Request for Discovery as outlined below.

I. DISCLOSURES

16-A Brady-Agurs Disclosure: The prosecution is unaware of any evidence that is exculpatory on its face relating to the offense charged.

With regard to evidence that may be exculpatory as used or interpreted, the prosecution requests that the defense counsel submit, in writing, the defense to be asserted in this case so the prosecution can review its file to determine if any facts, evidence or witnesses may be material to the preparation of that defense. In the alternative, the prosecution offers to defense counsel an open

✓

file policy to review those documents in the control and possession of the prosecution that may be exculpatory in some manner to the offense charged.

16-B Stipulation - Request Disclosure:

1. Statement of Defendant: The State has complied with discovery by providing the known statements of the Defendant that are contained in documents and items the State currently has in its possession and will comply with discovery as more information becomes available, as follows:

- a. Audio Taped Confession/Statement, if any exists
- b. Video Taped Confession/Statement, if any exists
- c. Written Confession/Statement, if any exists
- d. As reflected in Police Reports
- e. As reflected in booking sheets

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

2. Statement of Co-Defendant: See disclosed police reports for statements of Co-Defendant, if any exists.

3. Defendant's Prior Record: The Defendant's prior record disclosed in the following:

- a. NCIC report

4A. Documents and Tangible Objects: Police Reports, Witness Statements, Medical records and/or other tangible documents in possession of the Ada County Prosecutor's Office as of the date of filing of this document disclosed as State's pages 1 through 49. Pursuant to I.C.R. 16(d), the State has provided an unredacted discovery packet for defense counsel and a redacted packet of discovery for the defendant. The unredacted packet of discovery is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need.

i. Audio/video recordings: The State will provide audio and/or video recordings when they are received, if any exists, in this case. The State will provide unredacted audio and/or video to defense counsel marked "Confidential," which are not to be shared with the defendant or

the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. At the preliminary hearing level, upon request, the State will provide redacted audio/video to defense counsel so that redacted audio/video may be shared with the defendant.

Be advised: As you are aware, the Ada County Jail video records inmate video conversations your client has with individuals other than your client's lawyer while incarcerated at the Ada County Jail. The visual or the images of the recorded calls are kept for only 30 days of the date of the conversation, although the audio portion of the video recordings are maintained indefinitely. Please contact the handling prosecuting attorney to make an appointment to view those video calls should you desire to do so before they drop off the system.

B. Photographs: The State will comply with such request as it receives photographs, maps, charts or diagrams, if any exist, in this case.

5. Reports of Examinations and Tests:

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☒ These documents are specifically identified in subsection 4A above as State's pages 43 through 49.

6. Witnesses: A list of names identifying witnesses and protected contact information has been provided to defense counsel in a letter under separate cover, which is not to be disclosed to the defendant or to the defendant's family pursuant to I.C.R. 16(d) without the consent of the prosecuting attorney or an order of the court upon a showing of need. The State has provided to defense counsel a separate redacted witness list excluding protected information that can be shared with the defendant.

7. Expert Witnesses: The State will comply with such request as it identifies expert witnesses, if any exist, in this case.

☒ The State will comply with such request as it receives reports of examinations and tests, if any exist, in this case.

☒ These witnesses have been identified in a letter to defense counsel as described above in subparagraph 6 above.

8. Police Reports: The State possesses police reports, witness statements and other documents which are available upon request. These documents are specifically identified in subparagraph 4(A) above.

II. OBJECTIONS


A. The State has excluded the identity of the Confidential Informant from this Discovery Response. The grounds for this objection is/are as follows. Pursuant to I.C.R. 16(g)(2) and I.R.E. 509, the identity of a Confidential Informant is excluded unless said Informant is to be produced as a witness at a hearing or trial, subject to any protective order under I.C.R. 16(l) or a disclosure order under Rule 16(b)(9).

B. The State objects to any items in the defendant's request for discovery that would be in violation of state or federal law as follows and requests that if this Court rules that disclosure is required, that this Court also issue a protective order pursuant to I.C.R. 16(l):

- ☒ NCIC criminal history for all witnesses. The State is not permitted to use NCIC for this purpose pursuant to federal law and hereby objects to providing this material.
- ☒ A police officer(s)' internal affairs files and/or other personnel documents. Personnel documents are confidential matters pursuant to State law. The State hereby objects to providing this material.
- ☐ Other

RESPECTFULLY SUBMITTED this 21 day of April 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



Kale D. Gans
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 21 day of April 2014, I caused to be served, a true and correct copy of the foregoing Preliminary Hearing Response to Request for Discovery and Objections upon the individual(s) named below in the manner noted:

Anita Moore, Ada County Public Defender

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By hand delivering copies of the same to defense counsel.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

Alicia Lardini

APR 21 2014

CHRISTOPHER D. RICH, Clerk
By **SHERRI BOUCHER**
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kale D. Gans
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208) 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
)	
vs.	)	REQUEST FOR DISCOVERY
)	
JEREMY YORK CUNNINGHAM,)	
)	
Defendant.)	
_____)	

TO THE ABOVE NAMED DEFENDANT:

PLEASE TAKE NOTICE that the undersigned, pursuant to Rule 16 of the Idaho Criminal Rules, requests Discovery and inspection of the following:

(1) Documents and Tangible Objects:

Request is hereby made by the prosecution to inspect and copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody or control of the defendant, and which the defendant intends to introduce in evidence at trial.

(2) Reports of Examinations and Tests:

The prosecution hereby requests the defendant to permit the State to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial, or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

(3) Defense Witnesses:

The prosecution requests the defendant to furnish the State with a list of names and addresses of witnesses the defendant intends to call at trial.

(4) Expert Witnesses:

The prosecution requests the defendant to provide a written summary or report of any testimony that the defense intends to introduce pursuant to Idaho Criminal Rule 16(c)(4), including the facts and data supporting the opinion and the witness's qualifications.

(5) Pursuant to Idaho Code Section 19-519, the State hereby requests that the defendant state in writing within ten (10) days any specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

DATED this 21 day of April 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Kale D. Gans', is written over a horizontal line.

Kale D. Gans

Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21 day of April 2014, I caused to be served, a true and correct copy of the foregoing Request for Discovery upon the individual(s) named below in the manner noted:

Anita Moore, Ada County Public Defender

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☒ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By hand delivering copies of the same to defense counsel.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

Alicia Landini

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED	4-28-14	AT	9:25 A.M.
CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT			
BY <u>Amory</u> Deputy			

STATE OF IDAHO,

Plaintiff,

vs.

Jeremy York Cunningham
Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FB14-5157

Case Called: Steckel 91825

☒ Ada ☐ Special K. Gans

☒ PD ☐ Private A. Moore

Defendant: ☒ Present ☐ Not Present ☒ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☐ Bond \$ 10,000 ☐ Pre-Trial Release Order ☒ Motion for Bond Reduction Denied / Granted

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☒ State / Defense / Mutual Request for Continuance D has other hearings today

☒ State / Defense Objection / No Objection to Continuance

☒ Case continued to 5-2-14 at 9:30 am/pm for PH

☐ Defendant Waives Preliminary Hearing ☐ Hearing Held ☐ Commitment Signed

☐ Case Bound Over to Judge on at am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

Make take Bond up again on 5-2-14

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Signature [Signature]

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: [Signature]
Deputy Clerk

DATED 4-28-14

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

5-2-14
FILED 5/2/14 AT 9/14 A M.
CHRISTOPHER D. RICH,
CLERK OF THE DISTRICT COURT
BY Hmanly
Deputy

STATE OF IDAHO,

Plaintiff,

vs.

Jeremy York Cunningham
Defendant

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE14-5157

Case Called: Steel 91026

☒ Ada ☐ Special K. Gans

☒ Private A. Casho

Defendant: ☒ Present ☐ Not Present ☒ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☐ Bond \$ 10,000 ☐ Pre-Trial Release Order ☒ Motion for Bond Reduction Denied ~~Granted~~

☐ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☐ Reading of Complaint Waived

☒ State / Defense / Mutual Request for Continuance Case set for Hrg.

☒ State / Defense / No Objection to Continuance

☒ Case continued to 5-15-14 at 8:30 am/pm for PH

☐ Defendant Waives Preliminary Hearing ☐ Hearing Held ☐ Commitment Signed

☐ Case Bound Over to Judge on at am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

Court will entertain bond reduction request prior to 5-15-14

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

Signature J. Gans

By: Hmanly
Deputy Clerk

DATED 5-2-14

Time	Speaker	Note
<u>2:03:40 PM</u>	.	
<u>2:03:47 PM</u>	Case Called	Jeremy Cunningham FE-14-05157
<u>2:04:27 PM</u>	States Attorney	Mackay Hanks/AC
<u>2:04:29 PM</u>	Defense Attorney	Anita Moore/PD
<u>2:04:29 PM</u>		Defendant Present In-Custody
<u>2:04:29 PM</u>		
<u>2:04:47 PM</u>	States Attorney	Amended Complaint
<u>2:05:34 PM</u>	Defense Attorney	Moves to exclude witnesses
<u>2:05:37 PM</u>	Judge	Granted
<u>2:05:57 PM</u>	States Attorney	Calls SW #1 Officer Ryan Thueson/Sworn
<u>2:06:57 PM</u>	Defense Attorney	Stip to Officer Training and Experience for todays hearing
<u>2:16:01 PM</u>		
<u>2:16:01 PM</u>		
<u>2:19:47 PM</u>	Defense Attorney	Objection/Move to strike
<u>2:19:53 PM</u>	States Attorney	Response
<u>2:20:06 PM</u>	Judge	Overruled
<u>2:20:30 PM</u>	Defense Attorney	Objection/Leading
<u>2:24:27 PM</u>	States Attorney	Moves to mark
<u>2:26:11 PM</u>	States Attorney	Moves to Admit SE #1 State Lab Report
<u>2:26:17 PM</u>	Defense Attorney	No Objection to exhibit for todays hearing only
<u>2:26:21 PM</u>	Judge	So Orders Admit SE #1
<u>2:26:35 PM</u>	Defense Attorney	CX SW #1
<u>2:33:58 PM</u>	Judge	Nothing further
<u>2:34:09 PM</u>	States Attorney	Rest
<u>2:34:14 PM</u>	Defense Attorney	Rest
<u>2:34:17 PM</u>	States Attorney	Submits, and Reserves Rebuttle
<u>2:34:25 PM</u>	Defense Attorney	Rest

<u>2:35:06 PM</u>	Judge	Finds PC to Bind Over case to District Court for arraignment with Judge C on 5/28/14 @ 1:30 pm Commitment signed
<u>2:36:09 PM</u>		End of Case
<u>2:36:09 PM</u>		

MAY 15 2014

CHRISTOPHER D. RICH, Clerk
By CINDY HO
DEPUTY

DR # 14-407425

GREG H. BOWER
Ada County Prosecuting Attorney

Kale D. Gans
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
vs.)	
	)	AMENDED
JEREMY YORK CUNNINGHAM,	)	COMPLAINT
)	
Defendant.	)	Cunningham's DOB: 8/21/1975
	)	Cunningham's SSN: XXX-XX-8081
_____)	

PERSONALLY APPEARED Before me this 15 day of ~~April~~ ^{May} 2014, ~~Kale D. Gans,~~ ^{R. Mackenzie Hanks}
Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first
duly sworn, complains and says: that JEREMY YORK CUNNINGHAM, on or about the
11th day of April, 2014, in the County of Ada, State of Idaho, did commit the crimes of: I.
POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II.
POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as
follows:

COUNT I

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

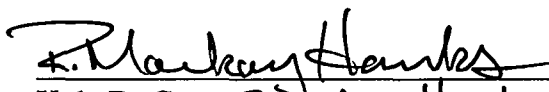
COUNT II

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a spoon, baggies, scales and/or syringes, used to prepare, store, analyze and/or inject a controlled substance.

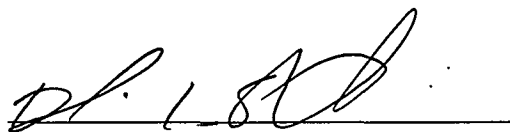
All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

GREG H. BOWER

Ada County Prosecutor


~~Kate D. Gans~~ R. Deekars Hanks
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 5th day of May 2014.


Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED	5/15/14	AT	2:36 PM
CHRISTOPHER D. RICH, CLERK OF THE DISTRICT COURT			
BY	Cindy Ho Deputy		

STATE OF IDAHO,

Plaintiff,

vs.

Jeremy Cunningham
Defendant.

PRELIMINARY HEARING NOTICE / MINUTE SHEET

Case Number: FE-14-D5157

Case Called: Steckle

☒ Ada ☐ Special M. Hanks

☒ PD/Private

Defendant: ☒ Present ☐ Not Present ☒ In Custody ☐ PD Appointed ☐ Waived Attorney

☐ Advised of Rights ☐ Waived Rights ☐ In Chambers ☐ Interpreter

☐ Bond \$ 10,000 ☐ Pre-Trial Release Order ☐ Motion for Bond Reduction Denied / Granted

☒ Amended Complaint Filed ☐ Complaint Amended by Interlineation ☒ Reading of Complaint Waived

☐ State / Defense / Mutual Request for Continuance

☐ State / Defense Objection / No Objection to Continuance

☐ Case continued to _____ at _____ am/pm for _____

☐ Defendant Waives Preliminary Hearing ☒ Hearing Held ☒ Commitment Signed

☒ Case Bound Over to Judge Neville on 5-27-14 at 9:00 am/pm

☐ Case Dismissed after Preliminary Hearing / On State's Motion ☐ Release Defendant, This Case Only

ADA COUNTY COURTHOUSE, 200 W. FRONT STREET, BOISE, ID 83702

You must appear as scheduled above. Failure to do so will result in a warrant being issued for your arrest.

I hereby certify that copies of this notice were served as follows:

Defendant: ☒ Hand Delivered ☐ Via Counsel

Defense Atty: ☐ Hand Delivered ☐ Intdept Mail

Prosecutor: ☒ Hand Delivered ☐ Intdept Mail

By: Cindy Ho
Deputy Clerk

Signature [Signature]

DATED 5-15-14

MAY 15 2014

CHRISTOPHER D. RICH, Clerk
By **CINDY HO**
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Kale D. Gans
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
)	
vs.	)	COMMITMENT
)	
JEREMY YORK CUNNINGHAM,)	
	)	Defendant's DOB: 8/21/1975
	)	Defendant's SSN: XXX-XX-8081
Defendant.)	
_____)	

THE ABOVE NAMED DEFENDANT, JEREMY YORK CUNNINGHAM,
having been brought before this Court for a Preliminary Examination on the 15th day of
May, 2014, on a charge that the Defendant on or about the 11th day of April,
2014, in the County of Ada, State of Idaho, did commit the crime(s) of: I. POSSESSION
OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION
OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A as follows:

COUNT I

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

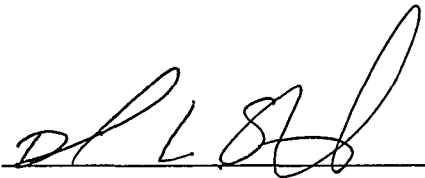
COUNT II

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a spoon, baggies, scales and/or syringes, used to prepare, store, analyze and/or inject a controlled substance.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 10,000 -.

DATED this 15th day of May, 2014.


MAGISTRATE

150
1/12/14
a

NO. _____
A.M. _____ P.M. _____

MAY 20 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
	)	AMENDED
vs.	)	INFORMATION
)	
JEREMY YORK CUNNINGHAM,	)	Defendant's DOB: 8/21/1975
	)	Defendant's SSN: XXX-XX-8081
Defendant.)	
_____)	

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that JEREMY YORK CUNNINGHAM is accused by this Information of the crime(s) of: I. POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) and II. POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR, I.C. §37-2734A which crime(s) was/were committed as follows:

COUNT I

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did unlawfully possess a controlled substance, to-wit: Methamphetamine, a Schedule II controlled substance.

COUNT II

That the Defendant, JEREMY YORK CUNNINGHAM, on or about the 11th day of April, 2014, in the County of Ada, State of Idaho, did possess with the intent to use drug paraphernalia, to-wit: a spoon, baggies, scales and/or syringes, used to prepare, store, analyze and/or inject a controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER

Ada County Prosecuting Attorney

Ada County Mugshot - Prosecutor's Office



User: PRLARDAN



Photo Taken: 2014-04-12 02:18:48

Name: CUNNINGHAM, JEREMY YORK

Case #: CR-FE-2014-0005157

LE Number: 107622

DOB: 1975-08-21 [38y/8m]

SSN: xxxx-xx-8081

Height: 511

Weight: 175

Drivers License Number:

Drivers License State:

Sex: M **Race:** W **Eye Color:** BRO **Hair Color:** BRO **Facial Hair:**

Marks:

Scars:

Tattoos:

000035

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____ FILED _____
A.M. _____ P.M. _____

MAY 22 2014

CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO, Plaintiff, vs. JEREMY CUNNINGHAM, Defendant.	Case No. CR-FE-2014-5157 MOTION FOR PRELIMINARY HEARING TRANSCRIPT
--	--

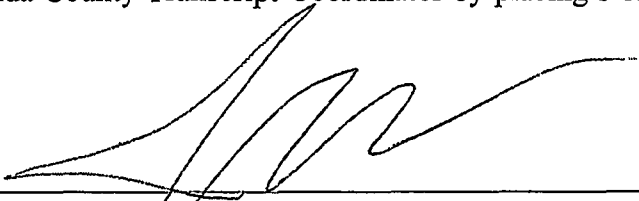
COMES NOW, JEREMY CUNNINGHAM, the above-named Defendant, by and through counsel of the Ada County Public Defender's office, Eric R. Rolfsen, and moves this Court pursuant to ICR 5.1(d) for an ORDER providing typewritten transcripts of the preliminary hearing proceedings, which were held on May 15th, 2014, as they are essential and necessary for filing pretrial motions. Defendant, being indigent, also requests that the transcripts be prepared at the cost of Ada County, and as soon as possible.

DATED Thursday, May 22, 2014.


ERIC R. ROLFSEN
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Thursday, May 22, 2014, I mailed (served) a true and correct copy of the within instrument to the Ada County Transcript Coordinator by placing said same in the Interdepartmental Mail.


Jennifer J. Vanderhoof

182
ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____
A.M. _____ P.M. _____
MAY 23 2014
CHRISTOPHER D. RICH, Clerk
By KATRINA CHRISTENSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,
Plaintiff,

vs.


JEREMY CUNNINGHAM,
Defendant.

Case No. CR-FE-2014-5157

MOTION TO DISQUALIFY

COMES NOW, JEREMY CUNNINGHAM, the above-named Defendant, by and through counsel of the Ada County Public Defender's office, Eric R. Rolfsen, and pursuant to ICR 25(a)(1) moves this Court for the disqualification of the Honorable Thomas F. Neville to sit as judge in the above-entitled action.

DATED Friday, May 23, 2014.

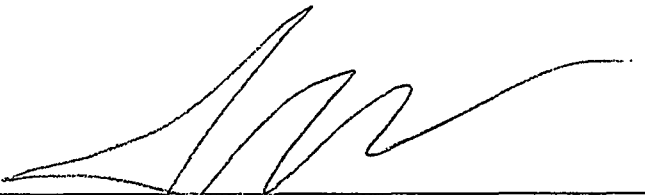


ERIC R. ROLFSEN
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on Friday, May 23, 2014, I mailed (served) a true and correct copy of the within instrument to:

R. Scott Bandy
Ada County Prosecutor's Office
Interdepartmental Mail



Jennifer J. Vanderhoof

NO. _____ FILED _____
A.M. _____ P.M. *4:40*

MAY 27 2014

CHRISTOPHER D. RICH, Clerk
By JANET ELLIS
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

RECEIVED
MAY 23 2014
Ada County Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-5157

ORDER GRANTING
DISQUALIFICATION
WITHOUT CAUSE

Pursuant to ICR 25(a)(1), Defendant's Motion to Disqualify ^{*without cause*} is granted without cause and a judge other than the Honorable Thomas F. Neville shall be assigned to preside over the case. *JM*

SO ORDERED AND DATED this 27th day of May, 2014. *JM*

Thomas F. Neville
Thomas F. Neville
District Judge

Time	Speaker	Note
<u>09:32:00 AM</u>	Court	called roll call for arraignments: ST v AMMON BLAIR CRFE14-005470 ST v COLIN GROVE CRFE14-002325 ST v MICHAEL ROSS CRFE14-004984 ST v JEREMY CUNNINGHAM CRFE14-005157 ST v DANIEL HOLLADAY CRFE14-006227 ST v BRYAN ERICKSON CRFE14-005180 ST v ERIC HEILESEN CRFE11-007001 ADVICE OF RIGHTS
<u>09:57:27 AM</u>	Court	called ST v JEREMY CUNNINGHAM CRFE14-005157 , present in custody
<u>09:57:37 AM</u>	Eric Rolfsen	counsel for defendant
<u>09:58:26 AM</u>	Scott Bandy	counsel for State - understands Motion to Disqualify filed
<u>09:59:27 AM</u>	Court	System shows filed on Friday at 4:10 p.m. will go ahead and arraign and then set over. Advised of penalties that could be imposed
<u>10:01:06 AM</u>	Court	case reassigned to Judge Norton, set over to June 5, 2014 @ 9:00 a.m.
<u>10:01:22 AM</u>	End Case	

FILED
Tuesday, May 27, 2014 at 04:26 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT
BY: [Signature]
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO ,
Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,
Defendant.

Case No. CR-FE-2014-0005157

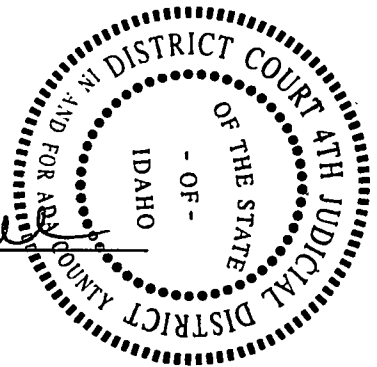
NOTICE OF REASSIGNMENT

NOTICE IS HEREBY GIVEN That the above-entitled case has been reassigned to the
Honorable LYNN G NORTON.

DATED Tuesday, May 27, 2014.

CHRISTOPHER D. RICH
Clerk of the District Court

By: [Signature]
Deputy Clerk



CERTIFICATE OF MAILING

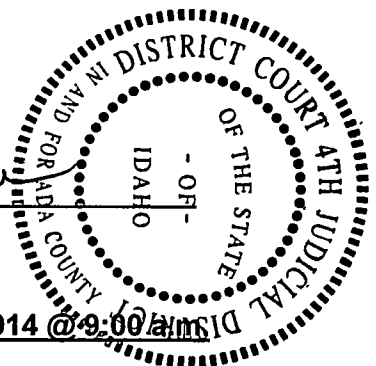
I hereby certify that on Tuesday, May 27, 2014, I have delivered a true and accurate
copy of the foregoing document to the following parties in the method indicated below:

ADA COUNTY PROSECUTOR
INTERDEPARTMENTAL MAIL

ADA COUNTY PUBLIC DEFENDER
INTER DEPT MAIL

CHRISTOPHER D. RICH
Clerk of the Court

By: [Signature]
Deputy Clerk



ENTRY OF PLEA RESET BEFORE JUDGE NORTON FOR JUNE 5, 2014 @ 9:00 am

NO. _____ FILED _____
A.M. 9:00 P.M. _____

JUN 04 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant

ERIC R. ROLFSEN, ISB #3731
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

RECEIVED
MAY 22 2014
Ada County Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

JEREMY CUNNINGHAM,

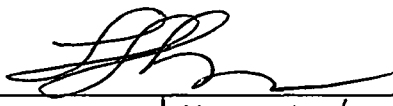
Defendant.

Case No. CR-FE-2014-5157

ORDER FOR PRELIMINARY
HEARING TRANSCRIPT

For good cause appearing, this Court hereby grants Defendant's Motion for Preliminary Hearing Transcript. Pursuant to ICR 5.1(d), a typewritten transcript of the preliminary hearing held May 15th, 2014, shall be prepared at the expense of Ada County, and as soon as possible.

SO ORDERED AND DATED this 4th day of June 2014.


~~Thomas F. Neville~~ Lynn Norton
District Judge

CC: TRANSCRIPTS

ORDER FOR PRELIMINARY HEARING TRANSCRIPT

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<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>09:22:21 AM</u>		St. v. Jeremy Cunningham CRFE14-5157 Entry of Plea Cust
<u>09:22:23 AM</u>	Defendant	Defendant is present in custody.
<u>09:22:27 AM</u>	State Attorney - Jim Vogt	
<u>09:22:33 AM</u>	Public Defender - Brian Marx	
<u>09:22:35 AM</u>	Judge Norton	inquires.
<u>09:22:43 AM</u>	Public Defender -	requests an extra week for an entry of plea.
<u>09:22:56 AM</u>	Judge Norton	continues the matter to June 12 at 9:00 for an entry of plea.

1004
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7/29

NO. _____
A.M. _____ FILED 4/46 P.M. _____

JUN 10 2014

CHRISTOPHER D. RICH, Clerk
By RAE ANN NIXON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	
)	
vs.	)	Case No. CRFE-2014-0005157
)	
JEREMY CUNNINGHAM,	)	NOTICE OF PREPARATION
	)	OF PRELIMINARY HEARING
Defendant,	)	TRANSCRIPT
_____)	


An Order for transcript was filed in the above-entitled matter on June 4, 2014, and a copy of said Order was received by the Transcription Department on June 6, 2014. I certify the estimated cost of preparation of the transcript to be:

Type of Hearing: Preliminary Hearing
Date of Hearing: May 15, 2014 Judge: Daniel Steckel
37 Pages x \$3.25 = \$120.25

In this case, the Ada County Public Defender's Office has agreed to pay for the cost of the transcript fee upon completion of the transcript.

The Transcription Department will prepare the transcript and file it with the Clerk of the District Court within thirty (30) days (or expedited days) from the date of this notice. The transcriber may make application to the District Judge for an extension of time in which to prepare the transcript.

Date: June 10, 2014

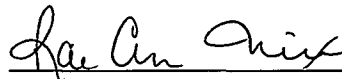


Rae Ann Nixon
Transcript Coordinator

CERTIFICATE OF MAILING

I certify that on June 10, 2014, a true and correct copy of the Notice of Preparation of Transcript was forwarded to Defendant's attorney of record, by first class mail, at:

Ada Co. Public Defender
200 W. Front St. Ste. 1107
Boise ID 83702
ERIC ROLFSEN



Rae Ann Nixon
Transcript Coordinator

Time	Speaker	Note
09:52:19 AM		St. v. Jeremy Cunningham CRFE14-5157 Entry of Plea Cust
09:52:21 AM	Defendant	Defendant is present in custody.
09:52:24 AM	State Attorney - Jim Vogt	
09:52:26 AM	Public Defender - Brian Marx	
09:52:43 AM	Judge Norton	inquires.
09:52:44 AM	Public Defender -	enters a not guilty plea.
09:52:47 AM	State Attorney -	comments and advises this will be a 2 day trial.
09:53:54 AM	Judge Norton	continues the matter to Sept. 9 at 8:30 for a 2 day Jury Trial and to August 28 at 9:00 for a PTC and sets July 11 for discovery cutoff date and sets July 24 at 9:00 for a status conference.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF JUN 12 2014
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADAMS

Christopher D. Rich, Clerk
By JANINE KORSEN
DEPUTY

STATE OF IDAHO,
Plaintiff,

vs.
Jeremy Cunningham
Defendant,

Case No. CR FE14-5157

NOTICE OF JURY TRIAL
AND ORDER GOVERNING PROCEEDINGS

Appearances:

Prosecuting Attorney

Counsel for the State

Public Defender or _____

Counsel for Defendant

THIS IS YOUR NOTICE OF TRIAL SETTING

THE ABOVE ENTITLED MATTER HAS BEEN SET FOR TRIAL BEFORE THE COURT AND A JURY ON Sept 9, 2014, TO COMMENCE AT THE HOUR OF 8:30 A.M. THIS TRIAL WILL CONTINUE DAILY THEREAFTER UNTIL COMPLETED, SKIPPING THURSDAYS.

A PRE-TRIAL CONFERENCE IS SET FOR Aug 28, 2014, AT 9:00 A.M. THE DEFENDANT WILL BE AVAILABLE PERSONALLY WITH COUNSEL AT THIS PRE-TRIAL CONFERENCE UNLESS EXCUSED BY THE COURT. status conf. July 24, 2014 at 9:00 a.m.

A mutual discovery compliance date is ordered on or before July 11, 2014

File all pretrial motions governed by I.C.R. 12 no later than 14 days after the compliance date set for discovery or otherwise show good cause, upon formal motion, why such time limits should be enlarged. Motions in limine shall be in writing and filed 5 days prior to the pretrial conference.

Jury instructions, exhibit and witness lists must be submitted to the Court prior to pretrial conference.

Hon. George D. Carey	Hon. Gerald Schroeder
Hon. Dennis Goff	Hon. Kathryn A. Sticklen
Hon. Daniel C. Hurlbutt, Jr.	Hon. Michael McLaughlin
Hon. James Judd	Hon. Renae Hoff
Hon. Duff McKee	<u>Hon. James Morfitt</u>
Hon. Darla Williamson	<u>Any sitting Fourth District Judge</u>
Hon. Gregory M. Culet	Hon. William Woodland

Copies hand-delivered in court to above counsel. Hon. Ronald Wilper

[Signature]
LYNN G. NORTON, District Judge

1004
HS
7/24
9-

NO. _____
FILED _____
A.M. _____ P.M. *7/24*

JUL 02 2014

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

James E. Vogt
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)

Plaintiff,)

vs.)

JEREMY YORK CUNNINGHAM,)

Defendant.)

Case No. CR-FE-2014-0005157

**DISCOVERY
RESPONSE TO COURT**

COMES NOW, James E. Vogt, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, and informs the Court that the State has complied with the Defendant's Request for Discovery.

RESPECTFULLY SUBMITTED this 1 day of July, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney

[Signature]
James E. Vogt
Deputy Prosecuting Attorney

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
09:44:41 AM		St v Jeremy Cunningham CRFE14-5157 Status Conference
09:44:44 AM		Defendant present in custody
09:44:46 AM	State Attorney	James Vogt
09:44:47 AM	Public Defender	Brian Marx
09:45:13 AM	Public Defender	A go for trial

1004

NO. _____
A.M. _____ P.M. _____

GREG H. BOWER
Ada County Prosecuting Attorney

AUG 18 2014

CHRISTOPHER D. RICH, Clerk
By SHERRI BOUCHER
DEPUTY

Barbara A. Duggan
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

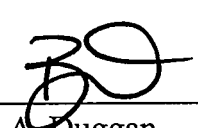
THE STATE OF IDAHO,)
)
Plaintiff,)
vs.)
)
JEREMY YORK CUNNINGHAM,)
)
Defendant.)
)
_____)

Case No. CRFE2014-0005157

**ADDENDUM TO
DISCOVERY RESPONSE
TO COURT**

COMES NOW, Barbara A. Duggan, Deputy Prosecuting Attorney in and for Ada
County, State of Idaho, and informs the Court that the State has submitted an Addendum to
Response to Discovery.

RESPECTFULLY SUBMITTED this 18th day of August, 2014.



Barbara A. Duggan
Deputy Prosecuting Attorney

Time	Speaker	Note
11:00:22 AM		St. v. Jeremy Cunningham CRFE14-5157 Pre-Trial Conference/ Cust Mtn to Substitute Counsel
11:00:26 AM	Defendant	Defendant is present in custody.
11:00:29 AM	State Attorney - Jim Vogt	
11:00:31 AM	Public Defender - Brian Marx	
11:00:34 AM	Judge Norton	reviews the file and questions the Defendant.
11:01:38 AM	Defendant	comments and will withdraw his Motion to Substitute Counsel.
11:01:57 AM	Judge Norton	questions the Defendant further regarding that.
11:02:55 AM	Judge Norton	will allow him to withdraw his motion then and inquires as to the trial.
11:03:15 AM	Public Defender -	advises it is still on for trial.
11:03:20 AM	State Attorney -	files his witness & exhibit lists today and advises Ms. Duggan will be who is trying this case.
11:04:01 AM	Judge Norton	hands an Acknowledgement of Settlement Offer to the Defendant to sign.
11:06:04 AM	Defendant	signs it.
11:06:06 AM	Judge Norton	comments regarding jury selection on Tuesday.
11:07:04 AM	State Attorney -	advises she may not call all 9 witnesses.
11:07:11 AM	Judge Norton	comments with Counsel's interspersed comments regarding the trial procedure.
11:12:10 AM	Public Defender -	argues a Motion for Bond Reduction.
11:14:03 AM	State Attorney -	argues in opposition.
11:15:21 AM	Public Defender -	begins rebuttal argument.
11:15:46 AM	Judge Norton	comments and will not reduce his bond and denies the Motion.

AUG 28 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Barbara A. Duggan
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702-5954
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

STATE'S WITNESS LIST

COMES NOW, Barbara A. Duggan, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and intends to call the following witnesses in its case in chief:

State's Witness List in its Case in Chief


1. Officer Thueson, Boise Police Department
2. Officer Plaisted, Boise Police Department
3. Detective Harmon, Boise Police Department
4. Officer Muguira, Boise Police Department
5. Jack Beasley, Ada County Sheriff
6. John Ilett, c/o Ada County Prosecutor's Office
7. Wendy Foster, c/o Ada County Prosecutor's Office
8. Mickey Hall, ISP Forensic Services
9. Kerry Russell, ISP Forensic Services

All above witnesses were disclosed in the State's initial discovery response filed July 2, 2014.

WHEREFORE, the State hereby notifies the Court of the witnesses it will call in its case in chief.

RESPECTFULLY SUBMITTED this 28 day of August 2014.

GREG H. BOWER
Ada County Prosecuting Attorney


By: _____
for Barbara A. Duggan
Deputy Prosecuting Attorney

AUG 28 2014

CHRISTOPHER D. RICH, Clerk
By **JANINE KORSEN**
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Barbara A. Duggan
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
)	
vs.	)	STATE'S EXHIBIT LIST
)	
JEREMY YORK CUNNINGHAM,)	
)	
Defendant.)	
_____)	

COMES NOW, THE STATE OF IDAHO, by and through the undersigned
Deputy Prosecuting Attorney, and submits its following exhibit list:

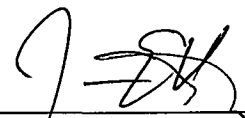
Exhibit No.	Description	Offered	Admitted	Date
	A. REAL EVIDENCE			
1.	Functioning silver digital scale			
2.	Small silver spoon w/white residue			
3.	Small plastic container w/residue			
4.	Black cloth bag			

5.	(6) Used syringes			
6.	(2) Clear baggies w/residue			
7.	Silver digital scale			
8.	Black metal case w/residue			
9.	Silver metal case			
10	Photo of silver digital scale			
11	Photo of Prescription bottle			
12	Photo of scale, spoon, silver metal cases, small plastic container, black cloth bag w/syringes			
13	Photo of Ziploc baggies (2)			
14	Mugshot of Jeremy York Cunningham			
15	Mugshot of John D. Ilett			
16	Audio by Officer Ryan Thueson			
17				
18				
19				
20				

DATED this 28 day of August 2014.

GREG H. BOWER

Ada County Prosecuting Attorney

for 
By: Barbara A. Duggan
Deputy Prosecuting Attorney

NO. _____ FILED 4:00
A.M. _____ P.M.

AUG 28 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

CASE NO. CR-FE-2014-5157

FINAL PRETRIAL ORDER

APPEARANCES:

James Vogt for the Plaintiff (Barbara Duggan will be handling attorney at trial)
Brian Marx for the Defendant

This matter came before the Court for a pretrial conference on August 28, 2014.

This case is set for a two-day jury trial to commence on September 9, 2014 at 9 a.m. The jury will be called at 8 a.m. The parties are to be present in the courtroom at 8:30 a.m. The trial schedule is anticipated to be 9 a.m. to 5 p.m. on Tuesday, September 9, 2014; 9 a.m. to 2:30 p.m. on Wednesday, September 10, 2014 if the court is still taking evidence. The jury can continue to deliberate after 2:30 p.m. on Wednesday as the judge hears other matters set in Ada County simultaneous with deliberations. If evidence or arguments remain or the jury remains in deliberation at the close of Wednesday, the court can continue taking evidence or deliberations on Thursday, September 11, 2014 and the schedule will be discussed at trial.

FINAL PRETRIAL ORDER

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16 CC-PA-PD

At the pretrial conference, the court and parties discussed whether there were stipulations to the admissibility of evidence, stipulations of facts, or an exchange of exhibits. The parties are to meet and confer about any redactions to any exhibits so these matters can be presented to the court on the morning the trial begins if there are objections.

No proposed jury instructions were filed and no tailored or included offense instructions were requested. The court distributed a draft of jury instructions to the handling counsel for each party after the pretrial conference.

At the hearing, the Defendant withdrew his request for the court to substitute counsel. No other motions have been filed in this case.

The Plaintiff anticipates calling up to 9 witnesses (although some on the witness list could be rebuttal witnesses) and the Defendant anticipates calling 0 witnesses. The parties were not aware of any scheduling conflicts with their witnesses. Any scheduling conflicts of witnesses should be noticed to the court, with that notice also provided to the other party, in advance of the trial.


A panel of jurors will be assembled by the jury commissioner. The court will use a struck jury with one alternate so each party receives seven peremptory challenges each, for an **initial panel of 27 jurors**. The jury list in random order will be available to the parties in the judge's chambers at the Ada County Courthouse before the trial. Contact the District Court Clerk about availability or if you want to observe the random draw.

The Court discussed the presentation of evidence. If the parties present digital images or audios as evidence, the parties must provide the device to present those to the jury and the device must be available and in a manner "clean" of all other case files, notes, images, or evidence such that the jury may use the device to replay the digital evidence during jury deliberations. Any

computer or device that can be used to replay evidence by the jury during deliberations must have the ability to access the internet disabled since the courthouse has a publicly available wi-fi network. If the parties intend to use computer or other electronic devices in the courtroom during the trial, they should call the District Court Clerk and set up a time **in advance of the trial** to ensure the device works. **No powerpoint presentations are to be used before the jury without being shown to the opponent outside the presence of the jury.** Any powerpoint presentation presented to the jury must be printed in hard copy format or provided to the court on a CD so that it is in the court file and subject to appellate review.

AND IT IS SO ORDERED.

Dated this 28th day of August, 2014.



Lynn G. Norton
District Judge

1004
JT
9/9
8/10

CHRISTOPHER D. RICH, Clerk
By AMY LANG
DEPUTY

Barbara A. Duggan
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Phone: (208) 287-7700
Fax: (208) 287-7707

THE STATE OF IDAHO,
Plaintiff,
vs.
JEREMY YORK CUNNINGHAM,
Defendant.

**NOTICE OF INTENT TO
IMPEACH PURSUANT TO
I.R.E. 609**


**NOTICE OF INTENT TO IMPEACH PURSUANT TO I.R.E. 609
(CUNNINGHAM), Page 1**

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Further, the State hereby specifically notifies the defendant pursuant to I.R.E. 609 that the State intends to use this conviction for impeachment purposes should the defendant choose to testify.

DATED this 5th day of September, 2014.

GREG H. BOWER
Ada County Prosecuting Attorney



By: Barbara A. Duggan
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of September, 2014, a true and correct copy of the foregoing Notice of Intent to Impeach Pursuant to I.R.E. 609 was served to **Brian Marx, Deputy Public Defender, 200 W. Front Street. Room 1107, Boise, Idaho 83702**, in the manner noted below:

- ☐ By depositing copies of the same in the United States mail, postage prepaid, first class.
- ☐ By depositing copies of the same in the Interdepartmental Mail.
- ☐ By informing the office of said individual(s) that said copies were available for pickup at the Office of the Ada County Prosecutor.
- ☐ By faxing copies of the same to said attorney(s) at the facsimile number: _____

✓ Hand delivered



Legal Assistant

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>8:22:45 AM</u>		St. v. Jeremy Cunningham CRFE14-5157 Jury Trial Day One
<u>8:33:07 AM</u>	Defendant	is present, in custody.
<u>8:33:14 AM</u>	State Attorney - Barbara Duggan	
<u>8:33:17 AM</u>	Public Defender - Brian Marx	
<u>8:33:23 AM</u>	Judge Norton	calls the case. The Jury Panel is not present.
<u>8:33:33 AM</u>	Judge Norton	comments and advises that the parties have stipulated that Phyllis Steveley can be excused and Mark Freeman can be excused.
<u>8:34:29 AM</u>	Public Defender -	agrees with that.
<u>8:34:32 AM</u>	State Attorney -	agrees with that also and comments regarding it.
<u>8:35:08 AM</u>	Public Defender -	comments regarding Juror #35 and requests to excuse him also.
<u>8:36:37 AM</u>	State Attorney -	has no objection to that.
<u>8:36:42 AM</u>	Judge Norton	excuses Juror #26, Mark Freeman and Juror # 35, Brandon Bjornn.
<u>8:37:03 AM</u>	State Attorney -	comments with the Ct's interspersed comments.
<u>8:38:23 AM</u>	Public Defender -	comments with the Ct's interspersed comments.
<u>8:39:18 AM</u>	State Attorney -	comments further with the Ct's interspersed comments.
<u>8:41:23 AM</u>	Judge Norton	comments.
<u>8:41:36 AM</u>		Court in recess.
<u>8:41:42 AM</u>		Court reconvenes. Jury Panel is now present.
<u>9:11:28 AM</u>	Judge Norton	comments to the Jury Panel.
<u>9:11:52 AM</u>	Clerk	gives the Roll Call of the Jury Panel.
<u>9:14:29 AM</u>	Judge Norton	comments and begins Introductory Instructions.
<u>9:22:28 AM</u>	Clerk	swears in the Jury Panel.
<u>9:22:59 AM</u>	Judge Norton	begins voir dire examination.
<u>9:31:13 AM</u>	Judge Norton	questions Juror #40 and excuses Juror #40.
<u>9:31:53 AM</u>	Judge Norton	questions Juror #46.
<u>9:34:05 AM</u>	Judge Norton	questions Juror #19 and excuses Juror #19.
<u>9:34:42 AM</u>	Judge Norton	continues voir dire examination.
<u>9:36:24 AM</u>	Judge Norton	questions Juror #16 and excuses Juror #16.
<u>9:38:52 AM</u>	Judge Norton	continues voir dire examination.

<u>9:39:54 AM</u>	Judge Norton	questions Juror #4.
<u>9:42:53 AM</u>	Judge Norton	continues voir dire examination.
<u>9:43:52 AM</u>	Judge Norton	questions Juror #12.
<u>9:44:18 AM</u>	Judge Norton	questions Juror #29.
<u>9:44:53 AM</u>	Judge Norton	questions Juror #36.
<u>9:45:20 AM</u>	Judge Norton	questions Juror #47.
<u>9:47:06 AM</u>	Judge Norton	questions Juror #23.
<u>9:47:38 AM</u>	Judge Norton	admonishes the Jury Panel for recess.
<u>9:48:49 AM</u>		Court in recess.
<u>10:11:23 AM</u>		Court reconvenes. Jury Panel is present.
<u>10:11:43 AM</u>	Judge Norton	comments and questions Juror #13 and excuse Juror #13.
<u>10:12:40 AM</u>	State Attorney -	begins voir dire examination.
<u>10:27:16 AM</u>	Judge Norton	comments.
<u>10:28:04 AM</u>	State Attorney -	continues voir dire examination.
<u>10:48:38 AM</u>	State Attorney -	passes the Jury Panel for cause.
<u>10:48:45 AM</u>	Public Defender -	begins voir dire examination.
<u>11:15:26 AM</u>	Public Defender -	passes the Jury Panel for cause.
<u>11:15:32 AM</u>	Judge Norton	comments to the Jury Panel.
<u>11:16:06 AM</u>		Peremptory Challenges begin.
<u>11:16:23 AM</u>	Judge Norton	comments.
<u>11:30:31 AM</u>	Clerk	calls out the names of the final Jury Panel.
<u>11:32:30 AM</u>	Judge Norton	thanks and excuses the remaining jurors.
<u>11:33:27 AM</u>	Judge Norton	comments and admonishes the Jury for recess.
<u>11:39:07 AM</u>	Judge Norton	comments to Counsel and advises she talked to Juror #8, Ms. Book off the record regarding her nursing and taking breaks.
<u>11:40:52 AM</u>	State Attorney -	requests the Court amend the Information by interlineation from scales to scale.
<u>11:41:12 AM</u>	Judge Norton	inquires if objection.
<u>11:41:16 AM</u>	Public Defender -	has no objection to that.
<u>11:41:22 AM</u>	Judge Norton	will amend the Information by interlineation to reflect that change.
<u>11:42:26 AM</u>		Court in recess.
<u>11:42:32 AM</u>		Court reconvenes. Jury is present.
<u>1:04:07 PM</u>	Judge Norton	comments.
<u>1:05:34 PM</u>	Clerk	swears in the final Jury Panel.
<u>1:05:58 PM</u>	Judge Norton	reads the opening Jury Instructions.
<u>1:20:09 PM</u>	State Attorney -	makes opening statement.
<u>1:29:43 PM</u>	Public Defender -	makes opening statement.
<u>1:30:58 PM</u>	Judge Norton	comments.
<u>1:30:59 PM</u>	State Attorney -	calls her first witness.

<u>1:31:36 PM</u>	Witness - Ryan Thueson	is sworn by the Clerk.
<u>1:32:09 PM</u>	State Attorney -	begins direct examination.
<u>1:43:21 PM</u>		Exhibit 12, previously marked, is identified.
<u>1:49:01 PM</u>	State Attorney -	continues direct examination.
<u>1:51:56 PM</u>	Public Defender -	objects, hearsay.
<u>1:52:06 PM</u>	Judge Norton	will allow it.
<u>1:52:11 PM</u>	State Attorney -	continues direct examination.
<u>2:01:57 PM</u>		Exhibit 1, previously marked, is identified.
<u>2:06:24 PM</u>	State Attorney -	continues direct examination.
<u>2:12:49 PM</u>		Exhibit 13, previously marked, is identified.
<u>2:13:36 PM</u>	State Attorney -	continues direct examination.
<u>2:16:04 PM</u>		Exhibit 6, previously marked, is identified and offered.
<u>2:17:05 PM</u>	Public Defender -	has no objection.
<u>2:17:10 PM</u>	Judge Norton	admits Exhibit 6.
<u>2:17:14 PM</u>		Exhibit 8, previously marked, is identified and offered.
<u>2:19:09 PM</u>	Public Defender -	has no objection.
<u>2:19:37 PM</u>	Judge Norton	admits Exhibit 8.
<u>2:19:42 PM</u>		Exhibit 9, previously marked, is identified and offered.
<u>2:21:31 PM</u>	Public Defender -	has no objection.
<u>2:21:34 PM</u>	Judge Norton	admits Exhibit 9.
<u>2:21:45 PM</u>	State Attorney -	publishes Exhibit's 6, 8 & 9 to the Jury.
<u>2:25:28 PM</u>		Exhibit's 10, 3 & 5, previously marked, are identified and offered.
<u>2:29:12 PM</u>	Public Defender -	has no objection.
<u>2:29:19 PM</u>	Judge Norton	admits Exhibit's 3, 5 & 10.
<u>2:29:46 PM</u>	State Attorney -	continues direct examination.
<u>2:30:56 PM</u>		Exhibit's 1, 2, 4 & 7, previously marked, are identified.
<u>2:36:56 PM</u>	State Attorney -	continues direct examination.
<u>2:38:16 PM</u>	Judge Norton	admonishes the Jury for recess.
<u>2:39:13 PM</u>		Court in recess.
<u>2:39:25 PM</u>		Court reconvenes. Jury is present.
<u>2:53:44 PM</u>	Public Defender -	begins cross examination.
<u>2:55:59 PM</u>	State Attorney -	objects, foundation.
<u>2:56:08 PM</u>	Public Defender -	comments.
<u>2:56:11 PM</u>	Judge Norton	will permit the question that was asked and will not strike his answer and so overrules the objection.
<u>2:56:57 PM</u>	Public Defender -	continues cross examination.
<u>2:57:46 PM</u>	State Attorney -	objects, foundation; sustained.

<u>2:57:52 PM</u>	Public Defender -	continues cross examination.
<u>2:59:03 PM</u>	State Attorney -	objects, relevance; overruled.
<u>2:59:08 PM</u>	Public Defender -	continues cross examination.
<u>3:01:46 PM</u>	State Attorney -	begins re-direct examination.
<u>3:04:42 PM</u>	State Attorney -	moves to admit Exhibit 12 for demonstrative purposes.
<u>3:04:50 PM</u>	Public Defender -	has no objection.
<u>3:04:52 PM</u>	Judge Norton	admits Exhibit 12.
<u>3:04:59 PM</u>	Witness - Ryan Thueson	steps down and is excused.
<u>3:05:16 PM</u>	State Attorney -	comments and calls her next witness.
<u>3:05:59 PM</u>	Public Defender -	advises he will stipulate to her qualifications.
<u>3:06:14 PM</u>	Witness - Carrie Russell	is sworn by the Clerk.
<u>3:06:29 PM</u>	State Attorney -	begins direct examination.
<u>3:19:43 PM</u>		Exhibit 2, previously marked, is identified.
<u>3:23:12 PM</u>		Exhibit 1, previously marked, is identified.
<u>3:26:04 PM</u>	State Attorney -	continues direct examination.
<u>3:26:34 PM</u>	State Attorney -	moves to admit Exhibit's 1 & 2.
<u>3:26:43 PM</u>	Public Defender -	has no objection.
<u>3:26:48 PM</u>	Judge Norton	admits Exhibit's 1 & 2.
<u>3:26:53 PM</u>	State Attorney -	continues direct examination.
<u>3:32:23 PM</u>	Public Defender -	begins cross examination.
<u>3:34:25 PM</u>	State Attorney -	Exhibit 13, previously marked, is identified again and offered.
<u>3:35:21 PM</u>	Public Defender -	has no objection.
<u>3:35:25 PM</u>	Judge Norton	admits Exhibit 13.
<u>3:35:36 PM</u>	Witness - Carrie Russell	steps down and is excused.
<u>3:36:07 PM</u>	State Attorney -	comments and moves to admit Exhibit's 4.
<u>3:36:45 PM</u>	Public Defender -	has no objection.
<u>3:36:48 PM</u>	Judge Norton	admits Exhibit 4.
<u>3:36:55 PM</u>	State Attorney -	moves to admit Exhibit 7.
<u>3:37:16 PM</u>	Public Defender -	has no objection.
<u>3:37:19 PM</u>	Judge Norton	admits Exhibit 7.
<u>3:37:23 PM</u>	State Attorney -	comments with the Ct's interspersed comments.
<u>3:38:48 PM</u>	State Attorney -	advises the State rests.
<u>3:38:52 PM</u>	Judge Norton	inquires if the Defense needs a recess.
<u>3:39:01 PM</u>	Public Defender -	does request one.
<u>3:39:04 PM</u>	Judge Norton	comments and admonishes the Jury for recess.

<u>3:39:17 PM</u>	Public Defender -	advises he has spoken with his client and he is not going to testify.
<u>3:40:18 PM</u>	Judge Norton	comments and asks if he wants her to go through the colloquy now with the Defendant.
<u>3:40:26 PM</u>	Public Defender -	requests to do that now.
<u>3:40:31 PM</u>	Judge Norton	questions the Defendant regarding testifying or not.
<u>3:44:31 PM</u>	Judge Norton	finds that he will not have to testify.
<u>3:46:11 PM</u>	Judge Norton	comments regarding the jury instructions with Counsel's interspersed comments.
<u>3:48:04 PM</u>		Court in recess.
<u>3:48:12 PM</u>		Court reconvenes. Jury is not present.
<u>4:01:16 PM</u>	Judge Norton	comments as to closings.
<u>4:02:06 PM</u>	Public Defender -	comments.
<u>4:02:12 PM</u>	Judge Norton	comments.
<u>4:03:36 PM</u>		The Jury is now present.
<u>4:04:06 PM</u>	Judge Norton	comments and inquires.
<u>4:04:19 PM</u>	Public Defender -	advises that the Defense rests.
<u>4:04:28 PM</u>	Judge Norton	comments to the Jury and admonishes them for recess until 9:00 a.m. tomorrow morning.
<u>4:07:53 PM</u>	Judge Norton	goes over the post proof jury instructions with Counsel's interspersed comments.
<u>4:15:42 PM</u>	Judge Norton	will finalize the jury instructions and will email them to Counsel.
<u>4:16:00 PM</u>	Judge Norton	advises Counsel to be here at 8:45 tomorrow morning.
<u>4:16:13 PM</u>		Court in recess.

<u>Time</u>	<u>Speaker</u>	<u>Note</u>
<u>8:32:29 AM</u>		St. v. Jeremy Cunningham CRFE14-5157 Jury Trial Day Two
<u>8:47:56 AM</u>	Defendant	is present, in custody. Jury not present.
<u>8:48:16 AM</u>	State Attorney - Barbara Duggan	
<u>8:48:18 AM</u>	Public Defender - Brian Marx	
<u>8:48:20 AM</u>	Judge Norton	calls the case.
<u>8:48:24 AM</u>	Judge Norton	goes over the final Jury Instructions with Counsel's interspersed comments. No objections.
<u>8:50:48 AM</u>		Court in recess.
<u>8:50:54 AM</u>		Court reconvenes. Jury is now present.
<u>9:02:52 AM</u>	Judge Norton	comments.
<u>9:03:11 AM</u>	Judge Norton	reads closing Jury Instructions.
<u>9:13:31 AM</u>	State Attorney -	makes closing argument.
<u>9:35:42 AM</u>	Public Defender -	makes closing argument.
<u>9:45:20 AM</u>	State Attorney -	makes final closing argument.
<u>9:49:45 AM</u>	Judge Norton	comments.
<u>9:50:12 AM</u>	Clerk	selects the alternate Juror's name.
<u>9:50:17 AM</u>	Judge Norton	comments to the alternate Juror.
<u>9:51:28 AM</u>	Clerk	swears in the Bailiff.
<u>9:51:59 AM</u>	Judge Norton	admonishes the Jury for deliberations.
<u>9:53:13 AM</u>		Court in recess.
<u>9:53:22 AM</u>		Court reconvenes. Jury is present.
<u>11:31:31 AM</u>	Judge Norton	comments. The Verdict is handed to the Court.
<u>11:32:22 AM</u>	Clerk	reads the Verdict.
<u>11:33:04 AM</u>	Judge Norton	comments to the Jury.
<u>11:33:12 AM</u>	Public Defender -	requests the Jury be polled.
<u>11:33:16 AM</u>	Judge Norton	polls the Jury at request of the Defense.
<u>11:34:29 AM</u>	Judge Norton	thanks and excuses the Jury.
<u>11:36:35 AM</u>	Judge Norton	orders an updated PSI.
<u>11:37:03 AM</u>	Public Defender -	advises he just had one done before Judge Bail in August.
<u>11:37:15 AM</u>	Judge Norton	will get a copy of that one then.
<u>11:38:41 AM</u>	State Attorney -	comments and wants to make sure the information from this case is in that PSI.
<u>11:38:52 AM</u>	Judge Norton	comments and can set this on tomorrow's calendar.
<u>11:39:13 AM</u>	Public Defender -	advises his client says the materials from this case are in that PSI also.
<u>11:39:23 AM</u>	Judge Norton	comments to the Defendant.

<u>11:39:52 AM</u>	Judge Norton	sets this for 10:00 a.m. tomorrow for a status conference.
<u>11:40:14 AM</u>	State Attorney -	requests that she revoke bond.
<u>11:40:20 AM</u>	Public Defender -	objects to that.
<u>11:40:43 AM</u>	Judge Norton	will leave this bond set at \$10,000 and will add condition that he be fitted with a GPS device that will be monitored by the pre-trial services if he bonds out.

SEP 10 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

CASE NO. CR-FE-2014-5157

JURY INSTRUCTIONS

HONORABLE LYNN NORTON
DISTRICT JUDGE
PRESIDING

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INSTRUCTION NO. 1

Now that you have been sworn as jurors to try this case, I want to go over with you what will be happening. I will describe how the trial will be conducted and what we will be doing. At the end of the trial, I will give you more detailed guidance on how you are to reach your decision.

Because the State has the burden of proof, it goes first. After the State's opening statement, the defense may make an opening statement, or may wait until the State has presented its case.

The State will offer evidence that it says will support the charge against the defendant. The defense may then present evidence, but is not required to do so. If the defendant does present evidence, the State may then present rebuttal evidence. This is evidence offered to answer the defense's evidence.

After you have heard all the evidence, I will give you additional instructions on the law. After you have heard the instructions, the State and the defense will each be given time for closing arguments. In their closing arguments, they will summarize the evidence to help you understand how it relates to the law. Just as the opening statements are not evidence, neither are the closing arguments. After the closing arguments, you will leave the courtroom together to make your decision. During your deliberations, you will have with you my instructions, the exhibits admitted into evidence and any notes taken by you in court.

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☐ Modified
☐ Not Given

1 **INSTRUCTION NO. 2**

2 This criminal case has been brought by the state of Idaho. I will sometimes refer to the state as
3 the prosecution.

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5 The defendant is charged by the State of Idaho with violations of law. The charge(s) against the
6 defendant are contained in the Information. I will read the Information and state the defendant's plea.

7 The Information is simply a description of the charges; it is not evidence.
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10 **INSTRUCTION NO. 3**

11 Under our law and system of justice, the defendant is presumed to be innocent. The
12 presumption of innocence means two things.

13 First, the state has the burden of proving the defendant guilty. The state has that burden
14 throughout the trial. The defendant is never required to prove his innocence, nor does the defendant
15 ever have to produce any evidence at all.

16 Second, the state must prove the alleged crime beyond a reasonable doubt. A reasonable
17 doubt is not a mere possible or imaginary doubt. It is a doubt based on reason and common sense. It
18 may arise from a careful and impartial consideration of all the evidence, or from lack of evidence. If
19 after considering all the evidence you have a reasonable doubt about the defendant's guilt, you must
20 find the defendant not guilty.
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22 **INSTRUCTION NO. 4**

23
24 Each count charges a separate and distinct offense. You must decide each count separately on the
25 evidence and the law that applies to it, uninfluenced by your decision as to any other count. The
26 defendant may be found guilty or not guilty on either or both of the offenses charged.
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INSTRUCTION NO. 5

Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. Neither sympathy nor prejudice should influence you in your deliberations. Faithful performance by you of these duties is vital to the administration of justice.

In determining the facts, you may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits offered and received, and any stipulated or admitted facts. The production of evidence in court is governed by rules of law. At times during the trial, an objection may be made to a question asked a witness, or to a witness' answer, or to an exhibit. This simply means that I am being asked to decide a particular rule of law. Arguments on the admissibility of evidence are designed to aid the Court and are not to be considered by you nor affect your deliberations. If I sustain an objection to a question or to an exhibit, the witness may not answer the question or the exhibit may not be considered. Do not attempt to guess what the answer might have been or what the exhibit might have shown. Similarly, if I tell you not to consider a particular statement or exhibit you should put it out of your mind, and not refer to it or rely on it in your later deliberations.

During the trial I may have to talk with the parties about the rules of law which should apply in this case. Sometimes we will talk here at the bench. At other times I will excuse you from the courtroom so that you can be comfortable while we work out any problems. You are not to speculate about any such discussions. They are necessary from time to time and help the trial run more smoothly.

Some of you have probably heard the terms "circumstantial evidence," "direct evidence" and "hearsay evidence." Do not be concerned with these terms. You are to consider all the evidence admitted in this trial.

However, the law does not require you to believe all the evidence. As the sole judges of the facts, you must determine what evidence you believe and what weight you attach to it.

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1 There is no magical formula by which one may evaluate testimony. You bring with you to this
2 courtroom all of the experience and background of your lives. In your everyday affairs you determine
3 for yourselves whom you believe, what you believe, and how much weight you attach to what you are
4 told. The same considerations that you use in your everyday dealings in making these decisions are the
5 considerations which you should apply in your deliberations.

6 In deciding what you believe, do not make your decision simply because more witnesses may
7 have testified one way than the other. Your role is to think about the testimony of each witness you
8 heard and decide how much you believe of what the witness had to say.

9 A witness who has special knowledge in a particular matter may give an opinion on that matter.
10 In determining the weight to be given such opinion, you should consider the qualifications and
11 credibility of the witness and the reasons given for the opinion. You are not bound by such opinion.
12 Give it the weight, if any, to which you deem it entitled.

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1 **INSTRUCTION NO. 6**

2 If during the trial I may say or do anything which suggests to you that I am inclined to favor the
3 claims or position of any party, you will not permit yourself to be influenced by any such suggestion. I
4 will not express nor intend to express, nor will I intend to intimate, any opinion as to which witnesses
5 are or are not worthy of belief; what facts are or are not established; or what inferences should be drawn
6 from the evidence. If any expression of mine seems to indicate an opinion relating to any of these
7 matters, I instruct you to disregard it.
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11 **INSTRUCTION NO. 7**
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13 Do not concern yourself with the subject of penalty or punishment. That subject must not in any
14 way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate
15 penalty or punishment.
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18 **INSTRUCTION NO. 8**
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20 If you wish, you may take notes to help you remember what witnesses said. If you do take
21 notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the
22 case. You should not let note taking distract you so that you do not hear other answers by witnesses.
23 When you leave at night, please leave your notes in the jury room.
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25 If you do not take notes, you should rely on your own memory of what was said and not be
26 overly influenced by the notes of other jurors. In addition, you cannot assign to one person the duty of
27 taking notes for all of you.
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INSTRUCTION NO. 9

It is important that as jurors and officers of this court you obey the following instructions at any time you leave the jury box, whether it be for recesses of the court during the day or when you leave the courtroom to go home at night.

Do not discuss this case during the trial with anyone, including any of the attorneys, parties, witnesses, your friends, or members of your family. "No discussion" also means no emailing, text messaging, tweeting, blogging, posting to electronic bulletin boards, and any other form of communication, electronic or otherwise.

Do not discuss this case with other jurors until you begin your deliberations at the end of the trial. Do not attempt to decide the case until you begin your deliberations.

I will give you some form of this instruction every time we take a break. I do that not to insult you or because I don't think you are paying attention, but because experience has shown this is one of the hardest instructions for jurors to follow. I know of no other situation in our culture where we ask strangers to sit together watching and listening to something, then go into a little room together and not talk about the one thing they have in common: what they just watched together.

There are at least two reasons for this rule. The first is to help you keep an open mind. When you talk about things, you start to make decisions about them and it is extremely important that you not make any decisions about this case until you have heard all the evidence and all the rules for making your decisions, and you won't have that until the very end of the trial. The second reason for the rule is that we want all of you working together on this decision when you deliberate. If you have conversations in groups of two or three during the trial, you won't remember to repeat all of your thoughts and observations for the rest of your fellow jurors when you deliberate at the end of the trial.

Ignore any attempted improper communication. If any person tries to talk to you about this case, tell that person that you cannot discuss the case because you are a juror. If that person persists, simply walk away and report the incident to the bailiff.

Do not make any independent personal investigations into any facts or locations connected with this case. **Do not** look up any information from any source, including the Internet. **Do not** communicate any private or special knowledge about any of the facts of this case to your fellow

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1 jurors. **Do not** read or listen to any news reports about this case or about anyone involved in this
2 case, whether those reports are in newspapers or the Internet, or on radio or television.

3 In our daily lives we may be used to looking for information on-line and to "Google"
4 something as a matter of routine. Also, in a trial it can be very tempting for jurors to do their own
5 research to make sure they are making the correct decision. You must resist that temptation for our
6 system of justice to work as it should. I specifically instruct that you must decide the case only on
7 the evidence received here in court. If you communicate with anyone about the case or do outside
8 research during the trial it could cause us to have to start the trial over with new jurors and you could
9 be held in contempt of court.

10 While you are actually deliberating in the jury room, the bailiff will confiscate all cell phones
11 and other means of electronic communications. Should you need to communicate with me or anyone
12 else during the deliberations, please notify the bailiff.

31 ☒ Given
32 ☐ Modified
☐ Not Given

INSTRUCTION NO. 10

A defendant in a criminal trial has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

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INSTRUCTION NO. 11

You have now heard all the evidence in the case. My duty is to instruct you as to the law.

You must follow all the rules as I explain them to you. You may not follow some and ignore others. Even if you disagree or don't understand the reasons for some of the rules, you are bound to follow them. If anyone states a rule of law different from any I tell you, it is my instruction that you must follow.

INSTRUCTION NO. 12

As members of the jury it is your duty to decide what the facts are and to apply those facts to the law that I have given you. You are to decide the facts from all the evidence presented in the case.

The evidence you are to consider consists of:

1. sworn testimony of witnesses;
2. exhibits which have been admitted into evidence; and
3. any facts to which the parties have stipulated.

Certain things you have heard or seen are not evidence, including:

1. arguments and statements by lawyers. The lawyers are not witnesses. What they say in their opening statements, closing arguments and at other times is included to help you interpret the evidence, but is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, follow your memory;
2. testimony that has been excluded or stricken, or which you have been instructed to disregard;
3. anything you may have seen or heard when the court was not in session.

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☐ Not Given

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1 **INSTRUCTION NO. 13**

2 It is alleged that the crime charged was committed "on or about" a certain date. If you find
3 the crime was committed, the proof need not show that it was committed on that precise date.
4

5 **INSTRUCTION NO. 14**

6 In every crime or public offense there must exist a union or joint operation of act and intent.
7

8 **INSTRUCTION NO. 15**

9
10 In order for the defendant to be guilty of Possession of a Controlled Substance, the state must
11 prove:

- 12 1. On or about April 11, 2014
13 2. in the state of Idaho
14 3. the defendant, Jeremy York Cunningham, possessed any amount of methamphetamine, and
15 4. the defendant either knew it was methamphetamine or believed it was a controlled
substance.

16 If any of the above has not been proven beyond a reasonable doubt, you must find the
17 defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must
18 find the defendant guilty.
19

20 **INSTRUCTION NO. 16**

21 In order for the defendant to be guilty of Possession of Drug Paraphernalia, the state must
22 prove:

- 23 1. On or about April 11, 2014
24 2. in the state of Idaho
25 3. the defendant, Jeremy York Cunningham possessed a spoon, baggies, scale and/or syringes
intending
26 4. to prepare, store, analyze and/or inject into the human body a controlled substance.

27 If any of the above has not been proven beyond a reasonable doubt, you must find the
28 defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must
29 find the defendant guilty.
30

31 ☒ Given
32 ☐ Modified
☐ Not Given

1 **INSTRUCTION NO. 17**

2
3 A person has possession of something if the person knows of its presence and has physical
4 control of it, or has the power and intention to control it. More than one person can be in possession
5 of something if each knows of its presence and has the power and intention to control it.
6

7 **INSTRUCTION NO. 18**

8
9 Under Idaho law, methamphetamine is a controlled substance.
10

11 **INSTRUCTION NO. 19**

12
13 The verdict form is self explanatory but I will read it to you at this time.
14

15 **READ VERDICT FORM**

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17 You will sign the verdict form as instructed in Instruction No. 23.
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31 ☒ Given
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INSTRUCTION NO. 20

I have outlined for you the rules of law applicable to this case and have told you of some of the matters which you may consider in weighing the evidence to determine the facts. In a few minutes counsel will present their closing remarks to you, and then you will retire to the jury room for your deliberations.

The arguments and statements of the attorneys are not evidence. If you remember the facts differently from the way the attorneys have stated them, you should base your decision on what you remember.

The attitude and conduct of jurors at the beginning of your deliberations are important. It is rarely productive at the outset for you to make an emphatic expression of your opinion on the case or to state how you intend to vote. When you do that at the beginning, your sense of pride may be aroused, and you may hesitate to change your position even if shown that it is wrong. Remember that you are not partisans or advocates, but are judges. For you, as for me, there can be no triumph except in the ascertainment and declaration of the truth.

As jurors you have a duty to consult with one another and to deliberate before making your individual decisions. You may fully and fairly discuss among yourselves all of the evidence you have seen and heard in this courtroom about this case, together with the law that relates to this case as contained in these instructions.

During your deliberations, you each have a right to re-examine your own views and change your opinion. You should only do so if you are convinced by fair and honest discussion that your original opinion was incorrect based upon the evidence the jury saw and heard during the trial and the law as given you in these instructions.

Consult with one another. Consider each other's views, and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgment. Each of you must decide this case for yourself; but you should do so only after a discussion and consideration of the case with your fellow jurors.

However, none of you should surrender your honest opinion as to the weight or effect of evidence or as to the innocence or guilt of the defendant because the majority of the jury feels otherwise or for the purpose of returning a unanimous verdict.

☒ Given
☐ Modified
☐ Not Given

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INSTRUCTION NO. 21

The original instructions and the exhibits will be with you in the jury room. The original instructions and the exhibits are part of the official court record. For this reason please do not alter them or write or mark on them in any way. Some of the exhibit(s) have been sealed in bags or containers that allow you to view them. Do not open or remove the contents of these exhibits. If you have any questions about the handling or use of the exhibits, submit those questions in writing to me through the bailiff.

You will each receive a copy of the instructions. The copies will be presented to you in booklet form. Please do not write or mark any of the copies.

The instructions are numbered for convenience in referring to specific instructions. There may or may not be a gap in the numbering of the instructions. If there is, you should not concern yourselves about such gap.

INSTRUCTION NO. 22

You have been instructed as to all the rules of law that may be necessary for you to reach a verdict. Whether some of the instructions apply will depend upon your determination of the facts. You will disregard any instruction which applies to a state of facts which you determine does not exist. You must not conclude from the fact that an instruction has been given that the Court is expressing any opinion as to the facts.

☒ Given
☐ Modified
☐ Not Given

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INSTRUCTION NO. 23

Upon retiring to the jury room, select one of you as a presiding juror, who will preside over your deliberations. It is that person's duty to see that discussion is orderly; that the issues submitted for your decision are fully and fairly discussed; and that every juror has a chance to express himself or herself upon each question.

In this case, your verdict must be unanimous. When you all arrive at a verdict, the presiding juror will sign it and you will return it into open court.

Your verdict in this case cannot be arrived at by chance, by lot, or by compromise.

If, after considering all of the instructions in their entirety, and after having fully discussed the evidence before you, the jury determines that it is necessary to communicate with me, you may send a note by the bailiff. You are not to reveal to me or anyone else how the jury stands until you have reached a verdict or unless you are instructed by me to do so.

A verdict form suitable to any conclusion you may reach will be submitted to you with these instructions.

Dated this 10th of September 2014.


JUDGE LYNN G. NORTON

☒ Given
☐ Modified
☐ Not Given

000084

INSTRUCTION NO. 24

You have now completed your duties as jurors in this case and are discharged with the sincere thanks of this Court. The question may arise as to whether you may discuss this case with the attorneys or with anyone else. For your guidance, the Court instructs you that whether you talk to the attorneys, or to anyone else, is entirely your own decision. It is proper for you to discuss this case, if you wish to, but you are not required to do so, and you may choose not to discuss the case with anyone at all. If you choose to, you may tell them as much or as little as you like, but you should be careful to respect the privacy and feelings of your fellow jurors. Remember that they understood their deliberations to be confidential. Therefore, you should limit your comments to your own perceptions and feelings. If anyone persists in discussing the case over your objection, or becomes critical of your service, either before or after any discussion has begun, please report it to me.

☒ Given
☐ Modified
☐ Not Given

SEP 10 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,) Case No: CR-FE-2014-5157
)
Plaintiff,) VERDICT
)
vs.)
)
JEREMY YORK CUNNINGHAM,)
)
Defendant)

We, the Jury, unanimously find the defendant Jeremy York Cunningham,

MARK ONLY ONE OF THE FOLLOWING VERDICTS FOR EACH COUNT.

COUNT I

☐ **NOT GUILTY** of Possession of a Controlled Substance.

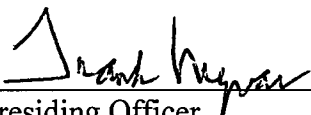
☒ **GUILTY** of Possession of a Controlled Substance.

COUNT II

☒ **NOT GUILTY** of Possession of Drug Paraphernalia.

☐ **GUILTY** of Possession of Drug Paraphernalia.

Dated this 10th day of September 2014.


Presiding Officer

SEP 10 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

Jeremy Cunningham
Defendant.

Case No. CR FE 2014 5157
AMENDED
PRETRIAL RELEASE ORDER

BOND \$ 10,000.00

The above-named defendant has been ordered, as a condition of bond, to the following:

Pretrial monitoring and/or supervision through Ada County Sheriff's Office Pretrial Services Unit (PSU) pertaining to Court's order for:

Basic Monitoring Conditions:

- ☒ Compliance with all standard conditions of pretrial release
 - ☒ No new crimes (Defendant must notify the PSU of all contact with Law Enforcement)
 - ☒ Periodic reporting to the PSU as determined by the Idaho Pretrial Risk Assessment Instrument (IPRAI).
 - ☒ Maintain all Court Appearances
 - ☒ Defendant must provide accurate information to the PSU
 - ☒ Defendant must notify the PSU of any and all changes in contact information (address, phone, employment, emergency contact information, etc.)
 - ☒ No possession or consumption of illegal drugs

- ☐ No violation of No Contact Order or contact with alleged victim(s) _____
- ☐ No possession or consumption of alcohol or frequenting establishments where alcohol sales are primary source of revenue
- ☐ Other: _____

Conditions of Supervision:

- ☐ Alcohol Monitoring as determined post interview by the PSU to include urinalysis (U.A.), ankle monitor (transdermal), or portable breath test
or Court determined: ☐ UA ☐ Ankle Monitor ☐ Portable Breath Test
 - ☐ Ankle monitor required prior to release from custody
- ☒ Drug Monitoring via random urinalysis (UA)
- ☒ GPS ☒ GPS installation required prior to release from custody
- Other GPS Restrictions: _____

Defendant must immediately call the PSU: (208) 577-3444
7180 Barrister, Boise ID 83704
Monday through Friday 8:00am to 4:00pm

Defendant must pay alcohol monitoring and/or GPS monitoring fees thirty (30) days in advance. Any refund will be processed upon removal. Defendant is responsible for all urinalysis fees at the time of testing. Defendant will follow all pretrial program instructions given by the PSU.

If Defendant fails to comply with any of these terms, the PSU will promptly notify the Court of the alleged violation.

Defendant notified on
the record in court.

Defendant

Date

Judge

Date

9/10/14 0084

Time	Speaker	Note
10:01:44 AM		St. v. Jeremy Cunningham CRFE14-5157 Status Conference Cust
10:01:46 AM	Defendant	Defendant is present in custody.
10:01:51 AM	State Attorney - Barbara Duggan	
10:01:54 AM	Public Defender - Brian Max	
10:02:13 AM	Judge Norton	advises she has reviewed Judge Bail's PSI and inquires if the parties need an updated PSI report or any evaluations.
10:02:46 AM	Public Defender -	advises he received a copy of her PSI this morning and so does not need a new one.
10:02:58 AM	State Attorney -	also does not request one.
10:03:11 AM	Public Defender -	requests two week's continuance.
10:03:16 AM	Judge Norton	will not order an updated PSI then and continues the matter to Sept. 25 at 10:00 for sentencing.

Time	Speaker	Note
<u>11:05:31 AM</u>		St. v. Jeremy Cunningham Sentencing CRFE14-5157 Cust
<u>11:05:33 AM</u>	Defendant	Defendant is present in custody.
<u>11:05:38 AM</u>	State Attorney - Barbara Duggan	
<u>11:05:40 AM</u>	Public Defender - Brian Marx	
<u>11:05:42 AM</u>	Judge Norton	reviews the file and the PSI report.
<u>11:07:04 AM</u>	State Attorney -	argues sentencing, recommending 3+4 and screened for Drug Court and a hearing for restitution.
<u>11:14:49 AM</u>	Judge Norton	inquires if objection to restitution.
<u>11:14:55 AM</u>	Public Defender -	has no objection to the lab costs but objects to the prosecution costs.
<u>11:15:16 AM</u>	Judge Norton	comments and will continue a restitution hearing later then.
<u>11:15:44 AM</u>	Public Defender -	argues sentencing, requesting 1+2 with probation and 90 /90.
<u>11:18:13 AM</u>	Defendant	makes a statement on his own behalf.
<u>11:20:33 AM</u>	Judge Norton	comments and imposes a JOC of 1 1/2 + 3 1/2 and recommends any therapeutic or any rehabilitative programming that is available at the Dept of Corrections. \$750.00 fine, leave open the issue of restitution, court costs, PD reimbursement of \$1,000, up to \$100 for PSI fee
<u>11:23:22 AM</u>	Judge Norton	advises the Defendant of the right to appeal within 42 days.
<u>11:24:07 AM</u>	Judge Norton	continues the matter to Oct. 23 at 11:00 for a restitution hearing.
<u>11:24:23 AM</u>	Public Defender -	requests the Court waive the PSI fee since they just obtained the PSI from Judge Bail.
<u>11:24:34 AM</u>	Judge Norton	will not do that

SEP 29 2014

CHRISTOPHER D. RICH, Clerk
By LINDA SIMS-DOUGLAS
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

JUDGMENT & COMMITMENT

SSN: xxx-xx-8081

DOB: 08/21/1975

On the 25th day of September, 2014, before the Honorable Lynn G. Norton, District Judge, personally appeared Barbara Duggan, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the Defendant with his attorney, Brian Marx, for the pronouncement of judgment in this case.

The Defendant has been convicted upon a finding of guilty by jury to the offense(s) of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) of the Amended Information (Count II having been dismissed pursuant to plea agreement). The Court asked the Defendant if he had any legal cause to show why judgment should not be pronounced against him. No objection was made by either the State or the Defense to the entry of judgment.

IT IS FURTHER ADJUDGED that the Defendant is guilty as charged and convicted; that the offense for which the Defendant is adjudged guilty herein was committed on or about April 11, 2014.

1 IT IS ADJUDGED that the Defendant is sentenced, pursuant to Idaho Code
2 §19-2513, to the custody of the Idaho State Board of Correction to be held and incarcerated
3 by said Board in a suitable place for a period of time as follows:
4

5 For a minimum fixed and determinate period of confinement of one and one-half
6 (1½) year(s); with the fixed minimum period followed by an indeterminate period of custody
7 of up to three and one-half (3½) years, for a total term not to exceed five (5) years.
8

9 Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time
10 already served in this case in the amount of one hundred sixty-eight (168) days.
11

12 IT IS FURTHER ORDERED that the Defendant shall pay up to one hundred dollars
13 (\$100.00) for Presentence Investigation Report fees, pursuant to I.C. §19-2516; a fine of
14 seven hundred fifty dollars (\$750.00); and shall remit court costs of seventeen dollars fifty
15 cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars
16 (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of ten
17 dollars (\$10.00); ISTARS Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee
18 of three dollars (\$3.00); Victim's Compensation Fund in the amount of seventy-five dollars
19 (\$75.00); Drug Hotline Fee, pursuant to I.C. §37-2735A, in the amount of ten dollars
20 (\$10.00); Domestic Violence Fee of thirty dollars (\$30.00); Public Defender Reimbursement
21 Fee, pursuant to I.C. §19-854(c), in the amount of one thousand dollars (\$1,000.00); and
22 Emergency Surcharge Fee of one hundred dollars (\$100.00).
23
24
25

26 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the
27 Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho State Board
28 of Correction at the Idaho State Penitentiary or other facility within the state designated by
29 the State Board of Correction.

1 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment
2 and Commitment to the said Sheriff, which shall serve as the commitment of the Defendant.
3

4 Done in open Court this 25th day of September, 2014.
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7 _____
8 LYNN G. NORTON
9 District Judge
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of September, 2014, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA — EMAIL

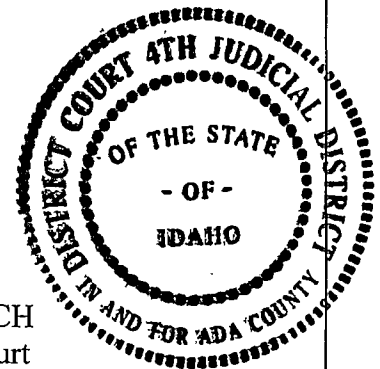
ADA COUNTY PUBLIC DEFENDER
VIA — EMAIL

ADA COUNTY JAIL
VIA — EMAIL

DEPARTMENT OF CORRECTION
VIA — EMAIL

CCD SENTENCING TEAM—DOC
VIA — EMAIL

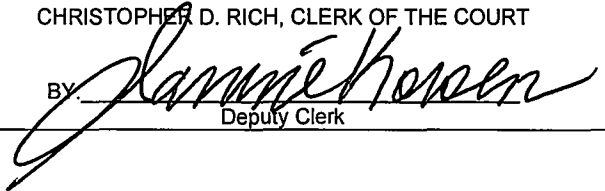
PROBATION & PAROLE—PSI DEPARTMENT
VIA — EMAIL



CHRISTOPHER D. RICH
Clerk of the District Court

By: [Signature]
Deputy Court Clerk

FILED
Monday, September 29, 2014 at 04:21 PM
CHRISTOPHER D. RICH, CLERK OF THE COURT

BY 
Deputy Clerk

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,
Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,
Defendant.

Case No. CR-FE-2014-0005157

ORDER TO TRANSPORT

Inmate Number: 107622
DOB: 8/21/1975

It appearing that the above-named defendant is in the custody of the Idaho State Board of Correction, and that it is necessary that **JEREMY YORK CUNNINGHAM** be brought before this Court for:

RESTITUTION HEARING.....THURSDAY, OCTOBER 23, 2014 @ 11:00 AM

It is THEREFORE ORDERED That the Ada County Sheriff bring the Defendant from the Penitentiary to the Court at said time and on said date;

IT IS FURTHER ORDERED That immediately following said Court appearance the Sheriff will return the said Defendant to the custody of the Idaho State Board of Correction until the court orders otherwise;

IT IS FURTHER ORDERED That the Idaho State Board of Correction release the said Defendant to the Ada County Sheriff for the purpose of the aforementioned appearance and await further order of the court.

IT IS FURTHER ORDERED That the Clerk of this Court serve a copy hereof upon the Idaho State Board of Correction forthwith and certify to the same.

Dated Monday, September 29, 2014.


LYNN G. NORTON
DISTRICT JUDGE

NO. _____
A.M. _____ P.M. _____

OCT 03 2014

CHRISTOPHER D. RICH, Clerk
By MAURA OLSON
DEPUTY

1004
Hr
10/23
11A.
ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

BRIAN C. MARX, ISB #7694
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Case No. CR-FE-2014-0005157

NOTICE OF APPEAL


TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK
OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on September 25, 2014, the Honorable Lynn G. Norton, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal is:
 - a) Did the district court abuse its discretion by imposing an excessive sentence?

- 4) There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
- 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
 - a) Jury Trial held September 9, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 200).
 - b) Jury Trial (day two) held September 10, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 50
 - c) Status Conference held September 11, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 100).
 - d) Sentencing held September 25, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 100).
- 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any materials relating to his motion filed under ICR 35, and any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 7) I certify:
 - a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
 - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 3rd day of October 2014.



Brian C. Marx
Attorney for Defendant

CERTIFICATE OF MAILING

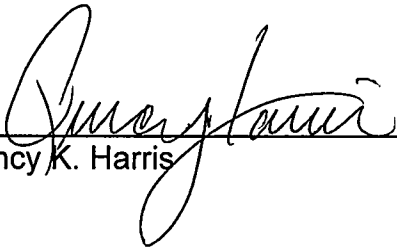
I HEREBY CERTIFY, that on this 3 day of October 2014, I mailed (served) a true and correct copy of the within instrument to:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
3050 North Lake Harbor Lane, Suite 100
Boise, Idaho 83703

Penny Tardiff
Court Reporter
Interdepartmental Mail

Barbara Duggan
Ada County Prosecutor's Office
Interdepartmental Mail



Quincy K. Harris

RECEIVED

OCT 03 2014

ADA COUNTY CLERK

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

BRIAN C. MARX, ISB #7694
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

NO. _____
A.M. _____ P.M. 4:50

OCT 07 2014

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Case No. CR-FE-2014-0005157

ORDER APPOINTING STATE
APPELLATE PUBLIC DEFENDER ON
DIRECT APPEAL

Defendant has elected to pursue a direct appeal in the above-entitled matter. Defendant being indigent and having heretofore been represented by the Ada County Public Defender's office in the District Court, the Court finds that, under these circumstances, appointment of appellate counsel is justified. The Idaho State Appellate Public Defender shall be appointed to represent the above-named Defendant in all matters pertaining to the direct appeal.

SO ORDERED AND DATED this 7th day of October 2014.



Lynn G. Norton
District Judge

CERTIFICATE OF MAILING

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have mailed one copy of the Order Appointing State Appellate Public Defender on Direct Appeal as notice pursuant to the Idaho Rules to each of the parties of record in this case in envelopes addressed as follows:

Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
3050 North Lake Harbor Lane, Suite 100
Boise, Idaho 83703

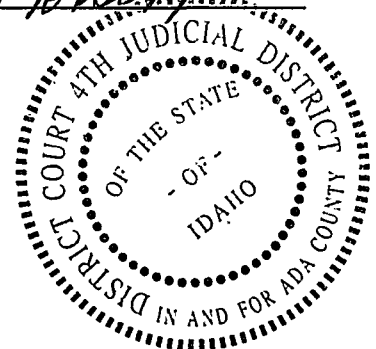
Barbara Duggan
Ada County Prosecutor's Office
Interdepartmental Mail

Ada County Public Defender
Attn: Quincy K. Harris
Interdepartmental Mail

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho

Date: October 8, 2014

By *Caroline Hansen*
Deputy Clerk



Time	Speaker	Note
11:27:47 AM		St. v. Jeremy Cunningham CRFE14-5157 Restitution Hearing Cust
11:27:49 AM	Defendant	Defendant is present in custody.
11:27:53 AM	State Attorney - Barbara Duggan	
11:27:56 AM	Public Defender - Brian Marx	
11:29:03 AM	Judge Norton	comments and inquires if this is going to hearing.
11:29:13 AM	Public Defender -	advises yes.
11:29:15 AM	Judge Norton	comments.
11:29:17 AM	State Attorney -	makes an opening statement and submits an Order for Restitution to the Court.
11:30:35 AM	Public Defender -	objects.
11:30:37 AM	Judge Norton	marks the Exhibit as State's Exhibit 1 and inquires if objection to it.
11:30:54 AM	Public Defender -	has no objection to it.
11:30:59 AM	Judge Norton	inquires as to lab costs.
11:31:14 AM	State Attorney -	is requesting those too.
11:31:18 AM	Judge Norton	reviews the PSI report.
11:31:41 AM	State Attorney -	advises we used Judge Bail's PSI report.
11:31:47 AM	Public Defender -	has no objection to the lab fee.
11:32:04 AM	Judge Norton	inquires further.
11:32:07 AM	State Attorney -	advises of \$140 for their office.
11:32:33 AM	Public Defender -	has no evidence or testimony.
11:32:44 AM	Judge Norton	may argue then.
11:32:48 AM	Public Defender -	makes a closing argument.
11:34:34 AM	Judge Norton	comments and orders restitution of \$2,240 for prosecution and \$100 for lab costs for a total of \$2,340.00.

OCT 23 2014

CHRISTOPHER D. RICH, Clerk
By MARTHA LYKE
DEPUTY

Greg H. Bower
Ada County Prosecuting Attorney

Barbara Duggan
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208)-287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	Case No. CR-FE-2014-0005157
)	
vs.	)	ORDER FOR RESTITUTION
	)	AND JUDGMENT
Jeremy York Cunningham,)	
)	
Defendant.)	
_____)	

WHEREAS, on the 25th day of September 2014, a Judgment of Conviction was entered against the Defendant Jeremy York Cunningham; and therefore pursuant to Idaho Code §19-5304 and §37-2732(k) and based on evidence presented to this Court;

IT IS HEREBY ORDERED, that the Defendant, Jeremy York Cunningham, shall make restitution to the victim(s) and/or law enforcement agency(ies) in the following amounts of:

ACPO DRUG PROSECUTION RESTITUTION
DRUG ENFORCEMENT DONATION ACCOUNT

\$2,240.00
\$100.00

TOTAL:

\$2,340.00

Post judgment interest on said restitution amount will accrue from the date of this Order and Judgment at the rate specified in Idaho Code §28-22-104.

FURTHER, pursuant to I.C. 19-5305 this Order may be recorded as a judgment against the Defendant, Jeremy York Cunningham, and the listed victim(s) may execute as provided by law for civil judgments.

FURTHER, it is the responsibility of the Defendant to notify the Restitution Department (208-287-7700) if at any time a victim collects by means of the civil judgment.

IT IS SO ORDERED.

DATED this 23rd day of October 2014.



Judge

OCT 27 2014

CHRISTOPHER D. RICH, Clerk
By MARTHA LYKE
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

SSN: xxx-xx-8081

DOB: 08/21/1975

Case No. CR-FE-2014-0005157

**AMENDED
JUDGMENT & COMMITMENT**

RESTITUTION AMENDMENT

On the 25th day of September, 2014, before the Honorable Lynn G. Norton, District Judge, personally appeared Barbara Duggan, Deputy Prosecuting Attorney for the County of Ada, State of Idaho, and the Defendant with his attorney, Brian Marx, for the pronouncement of judgment in this case.

The Defendant has been convicted upon a finding of guilty by jury to the offense(s) of COUNT I: POSSESSION OF A CONTROLLED SUBSTANCE, FELONY, I.C. §37-2732(c) of the Amended Information (Count II having been dismissed pursuant to plea agreement). The Court asked the Defendant if he had any legal cause to show why judgment should not be pronounced against him. No objection was made by either the State or the Defense to the entry of judgment.

IT IS FURTHER ADJUDGED that the Defendant is guilty as charged and convicted; that the offense for which the Defendant is adjudged guilty herein was committed on or about April 11, 2014.

SMH

IT IS ADJUDGED that the Defendant is sentenced, pursuant to Idaho Code §19-2513, to the custody of the Idaho State Board of Correction to be held and incarcerated by said Board in a suitable place for a period of time as follows:

For a minimum fixed and determinate period of confinement of one and one-half (1½) year(s); with the fixed minimum period followed by an indeterminate period of custody of up to three and one-half (3½) years, for a total term not to exceed five (5) years.

Pursuant to Idaho Code §18-309, the Defendant shall be given credit for the time already served in this case in the amount of one hundred sixty-eight (168) days.


IT IS FURTHER ORDERED that the Defendant shall pay up to one hundred dollars (\$100.00) for Presentence Investigation Report fees, pursuant to I.C. §19-2516; a fine of seven hundred fifty dollars (\$750.00); and shall remit court costs of seventeen dollars fifty cents (\$17.50); Criminal Justice Fee of ten dollars (\$10.00); P.O.S.T. Fee of fifteen dollars (\$15.00); Victim Notification Fee (VINE), pursuant to I.C. §31-3204, in the amount of ten dollars (\$10.00); ISTARS Fee of ten dollars (\$10.00); Peace Officer Temporary Disability Fee of three dollars (\$3.00); Victim's Compensation Fund in the amount of seventy-five dollars (\$75.00); Drug Hotline Fee, pursuant to I.C. §37-2735A, in the amount of ten dollars (\$10.00); Domestic Violence Fee of thirty dollars (\$30.00); Public Defender Reimbursement Fee, pursuant to I.C. §19-854(c), in the amount of one thousand dollars (\$1,000.00); and Emergency Surcharge Fee of one hundred dollars (\$100.00).

Pursuant to I.C. §19-5304 and §37-2732(k), the Defendant shall pay restitution in the amount of \$2,340.00, which shall bear interest at the statutory rate of 5.125% per annum until paid in full. Restitution payments shall be made through the Clerk of the District Court.

1 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the
2 Sheriff of Ada County, Idaho, for delivery forthwith to the custody of the Idaho State Board
3 of Correction at the Idaho State Penitentiary or other facility within the state designated by
4 the State Board of Correction.
5

6 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this Judgment
7 and Commitment to the said Sheriff, which shall serve as the commitment of the Defendant.
8

9 Dated this 23rd day of October 2014, *nunc pro tunc* September 25, 2014.
10

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12 
13 _____
14 LYNN G. NORTON
15 District Judge
16
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 27th day of October 2014, I mailed (served) a true and correct copy of the within instrument to:

ADA COUNTY PROSECUTOR
VIA — EMAIL

ADA COUNTY PUBLIC DEFENDER
VIA — EMAIL

ADA COUNTY JAIL
VIA — EMAIL

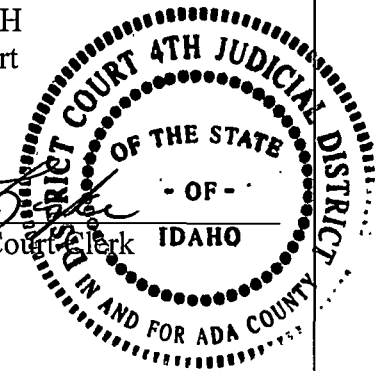
DEPARTMENT OF CORRECTION
VIA — EMAIL

PROBATION & PAROLE—PSI DEPARTMENT
VIA — EMAIL

CHRISTOPHER D. RICH
Clerk of the District Court

By: Martha T. Fisher

Deputy Court Clerk



1004

NO. 1040 FILED
A.M. _____ P.M. _____

OCT 28 2014

CHRISTOPHER D. RICH, Clerk
By KATHINA CHRISTENSEN
DEPUTY

ADA COUNTY PUBLIC DEFENDER
Attorneys for Defendant-Appellant

BRIAN C. MARX, ISB #7694
Deputy Public Defender
200 West Front Street, Suite 1107
Boise, Idaho 83702
Telephone: (208) 287-7400
Facsimile: (208) 287-7409

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Case No. CR-FE-2014-0005157

AMENDED NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE CLERK
OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

- 1) The above-named Appellant appeals against the above-named respondent to the Idaho Supreme Court from the final decision and order entered against him in the above-entitled action on September 25, 2014, the Honorable Lynn G. Norton, District Judge presiding.
- 2) That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under, and pursuant to, IAR 11(c)(1-10).
- 3) A preliminary statement of the issues on appeal, which the Appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the Appellant from asserting other issues on appeal are:
 - a) Did the district court abuse its discretion by imposing a seven-year prison sentence with the first one and one-half years fixed?

- b) Did the district court err in ordering restitution?
- 4) There is a portion of the record that is sealed. That portion of the record that is sealed is the pre-sentence investigation report (PSI).
- 5) Reporter's Transcript. The Appellant requests the preparation of the entire reporter's standard transcript as defined by IAR 25(d). The Appellant also requests the preparation of the additional portions of the reporter's transcript:
- a) Jury Trial held September 9, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 200).
 - b) Jury Trial (day two) held September 10, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 50).
 - c) Status Conference held September 11, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 100).
 - d) Sentencing held September 25, 2014 (Court Reporter: Penny Tardiff. Estimated pages: 100).
 - e) Restitution Hearing held October 23, 2014 (Court Reporter: Tiffany Fisher. Estimated pages: 100).
- 6) Clerk's Record. The Appellant requests the standard clerk's record pursuant to IAR 28(b)(2). In addition to those documents automatically included under IAR 28(b)(2), Appellant also requests that any exhibits, including but not limited to letters or victim impact statements, addenda to the PSI, or other items offered at the sentencing hearing be included in the Clerk's Record.
- 7) I certify:
- a) That a copy of this Notice of Appeal has been served on the Court Reporter(s) mentioned in paragraph 5 above.
 - b) That the Appellant is exempt from paying the estimated fee for the preparation of the record because the Appellant is indigent. (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - c) That there is no appellate filing fee since this is an appeal in a criminal case (I.C. §§ 31-3220, 31-3220A, IAR 23(a)(8)).
 - d) Ada County will be responsible for paying for the reporter's transcript, as the client is indigent (I.C. §§ 31-3220, 31-3220A, IAR 24(e)).
 - e) That service has been made upon all parties required to be served pursuant to IAR 20.

DATED this 27th day of October 2014.



Brian C. Marx
Attorney for Defendant

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 24 day of October 2014, I mailed (served) a true and correct copy of the within instrument to:

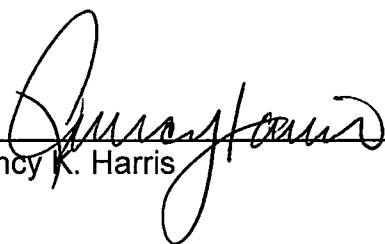
Idaho Attorney General
Criminal Division
Joe R. Williams Bldg., 4th Flr.
Statehouse Mail

Idaho Appellate Public Defender
3050 North Lake Harbor Lane, Suite 100
Boise, Idaho 83703

Penny Tardiff
Court Reporter
Interdepartmental Mail

Tiffany Fisher
Court Reporter
Interdepartmental Mail

Barbara Duggan
Ada County Prosecutor's Office
Interdepartmental Mail



Quincy K. Harris

ORIGINAL

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

NO. _____
A.M. _____ P.M. 4:06

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

DEC 08 2014

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

CASE NO. CR 2014-5157

S.C. DOCKET NO. 42585

SECOND AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, GREG BOWER, ADA COUNTY PROSECUTOR, 200 WEST FRONT STREET 3RD FLOOR, BOISE, ID, 83702, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment and Commitment entered in the above-entitled action on the 25th 29th day of September, 2014, the Honorable Lynn Norton, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court abuse its discretion by imposing a ~~seven~~ five-year prison sentence with the first one and one-half years fixed?

(b) Did the district court err in ordering restitution?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) Jury Trial held September 9-10, 2014, to include arguments on all motions or objections, the voir dire, opening statements, closing arguments, jury instruction conferences, reading of the jury instructions, any hearings regarding questions from the jury during deliberations, return of the verdict, and any polling of the jurors (Court Reporter: Penny Tardiff, estimation of more than 250 pages);

(b) Status Conference held September 11, 2011 (Court Reporter: Penny Tardiff, estimation of less than 100 pages);

(c) Sentencing Hearing held on September 25, 2014 (Court Reporter: Penny Tardif, estimation of less than 100 pages); and

- (d) Restitution Hearing held October 23, 2014 (Court Reporter: Tiffany Fisher, estimation of less than 100 pages).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2) and all exhibits, recordings, and documents per I.A.R. 31. The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2) and I.A.R. 31:

- (a) Transcript filed June 25, 2014;
- (b) State's Witness List filed August 28, 2014;
- (c) State's Exhibit List filed August 28, 2014;
- (d) Notice of Intent to Impeach Pursuant to I.R.E. 609 filed September 5, 2014;
- (e) All proposed and given jury instruction including, but not limited to, the Jury Instructions filed September 10, 2014; and
- (f) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing. Except that any pictures or depictions of child pornography necessary to the appeal need not be sent, but may be sought later by motion to the Idaho Supreme Court.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporters, Penny Tardiff and Tiffany Fisher;

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Ada County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 8th day of December, 2014.



ERIK R. LEHTINEN
Chief, Appellate Unit

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 8th day of December, 2014, caused a true and correct copy of the attached SECOND AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

BRIAN MARX
ADA COUNTY PUBLIC DEFENDER
200 W FRONT ST STE 1107
BOISE ID 83702

TIFFANY FISHER
COURT REPORTER
ADA COUNTY DISTRICT COURT
200 W FRONT STREET 3RD FLOOR
BOISE ID 83702

PENNY TARDIFF
COURT REPORTER
ADA COUNTY DISTRICT COURT
200 W FRONT STREET 3RD FLOOR
BOISE ID 83702

GREG BOWER
ADA COUNTY PROSECUTOR
200 WEST FRONT STREET 3RD FLOOR
BOISE ID 83702
STATEHOUSE MAIL

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE, ID 83720-0010
Hand delivered to Attorney General's mailbox at Supreme Court



CINTHYA R. HERRERA
Administrative Assistant

ERL/tmf/crh

IN THE SUPREME COURT OF THE STATE OF IDAHO

NO.

A.M. 8:11

FILED
P.M.

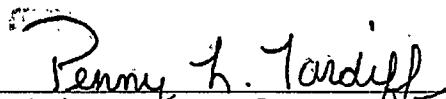
JAN 08 2015

CHRISTOPHER D. RICH, Clerk
By KELLE WEGENER
DEPUTY

STATE OF IDAHO,)
) Supreme Court Docket
Plaintiff-Respondent,) 42585
)
vs.)
)
JEREMY YORK CUNNINGHAM,)
)
Defendant-Appellant.)
)

NOTICE OF TRANSCRIPT LODGED

Notice is hereby given that on December 31, 2014, I
lodged a transcript 294 pages in length for the
above-referenced appeal with the District Court Clerk of
Ada County in the Fourth Judicial District.


(Signature of Reporter)

Penny L. Tardiff CSR

12-31-2014

Hearing Dates: 9/9/14, 9/10/14, 9/11/14 and 9/25/14

TO: Clerk of the Court
Idaho Supreme Court
451 West State Street
Boise, Idaho 83720
(208) 334-2616

NO. _____
A.M. 8:11 FILED P.M. _____

JAN 08 2015

CHRISTOPHER D. RICH, Clerk
By **KELLE WEGENER**
DEPUTY

IN THE SUPREME COURT OF THE STATE OF IDAHO

----- x Docket No. 42585
STATE OF IDAHO :
Plaintiff-Respondent, :
vs. :
JEREMY YORK CUNNINGHAM, :
Defendant-Appellant :
----- x


NOTICE OF TRANSCRIPT OF 11 PAGES LODGED

Appealed from the District Court of the Fourth Judicial
District of the State of Idaho, in and for the County of Ada,
Honorable Lynn G. Norton, District Court Judge.

This transcript contains:

10-23-14 Restitution Hearing

DATE: January 2, 2014



Tiffany Fisher, Official Court Reporter
Official Court Reporter,
Judge Melissa Moody
Ada County Courthouse
Idaho Certified Shorthand Reporter No. 979
Registered Professional Reporter

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Supreme Court Case No. 42585

CERTIFICATE OF EXHIBITS

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal. It should be noted, however, that the following exhibits will be retained at the District Court clerk's office and will be made available for viewing upon request.

1. State's Exhibit 1 – Small plastic container w/residue in it.
2. State's Exhibit 2 – Baggie with residue in it.
3. State's Exhibit 3 – Silver digital scale.
4. State's Exhibit 4 – Black metal case.
5. State's Exhibit 5 – Silver metal case.
6. State's Exhibit 7 – Small silver spoon.
7. State's Exhibit 10 – Baggie with black cloth bag in it.
8. State's Exhibit 13 – Black scale.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Presentence Investigation Report.

I FURTHER CERTIFY, that the following documents will be submitted as EXHIBITS to the Record:

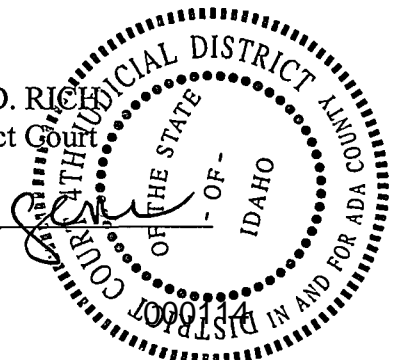
1. Transcript of Preliminary Hearing held May 15, 2014, Boise, Idaho, filed June 23, 2014.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 8th day of January, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By 
Deputy Clerk

CERTIFICATE OF EXHIBITS



**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

HONORABLE LYNN G NORTON

CLERK: Janine Korsen

CT REPORTER: Penny Tardiff

September 9, 2014

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

EXHIBIT LIST

Counsel for State: Barbara Duggan

Counsel for Defendant: Brian C Marx

STATE'S EXHIBITS / EVIDENCE

Admitted Date Admit

(DR # If evidence, include property number here)

1.	Small plastic container w/residue in it	Admitted	9-9-2014
2.	Baggie with residue in it	Admitted	9-9-2014
3.	Silver digital scale	Admitted	9-9-2014
4.	Black metal case	Admitted	9-9-2014
5.	Silver metal case	Admitted	9-9-2014
6.	Photo of prescription bottle	Admitted	9-9-2014
7.	Small silver spoon	Admitted	9-9-2014
8.	Photo of scale and metal cases and spoon	Admitted	9-9-2014
9.	Photo of baggies with residue in them	Admitted	9-9-2014
10.	Baggie with block cloth bag in it	Admitted	9-9-2014
12.	Aerial Map	Admitted	9-9-2014
13.	Black Scale	Admitted	9-9-2014

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

HONORABLE LYNN G NORTON

October 23, 2014

CLERK: Janine Korsen

CT REPORTER: Tiffany Fisher

THE STATE OF IDAHO,

Plaintiff,

vs.

JEREMY YORK CUNNINGHAM,

Defendant.

Case No. CR-FE-2014-0005157

EXHIBIT LIST

Counsel for State: Barbara Duggan

Counsel for Defendant: Brian C Marx

STATE'S EXHIBITS / EVIDENCE

Admitted

Date Admit

(DR # If evidence, include property number here)

1.	State of Costs and Request for Restitution	Admitted	10-23-2014
----	--	----------	------------

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Supreme Court Case No. 42585

CERTIFICATE OF SERVICE

I, CHRISTOPHER D. RICH, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

STATE APPELLATE PUBLIC DEFENDER

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

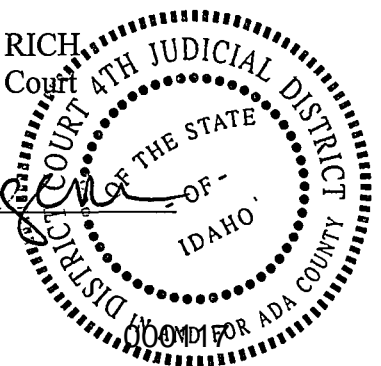
BOISE, IDAHO

Date of Service: JAN 08 2015

CERTIFICATE OF SERVICE

CHRISTOPHER D. RICH
Clerk of the District Court

By KW Segen
Deputy Clerk



IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

JEREMY YORK CUNNINGHAM,

Defendant-Appellant.

Supreme Court Case No. 42585

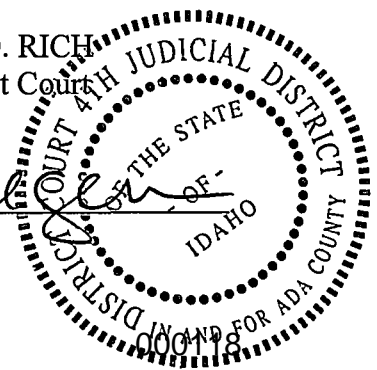
CERTIFICATE TO RECORD

I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled under my direction and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsel.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 3rd day of October, 2015.

CHRISTOPHER D. RICH
Clerk of the District Court

By KW
Deputy Clerk



CERTIFICATE TO RECORD